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Tribal Enrollment

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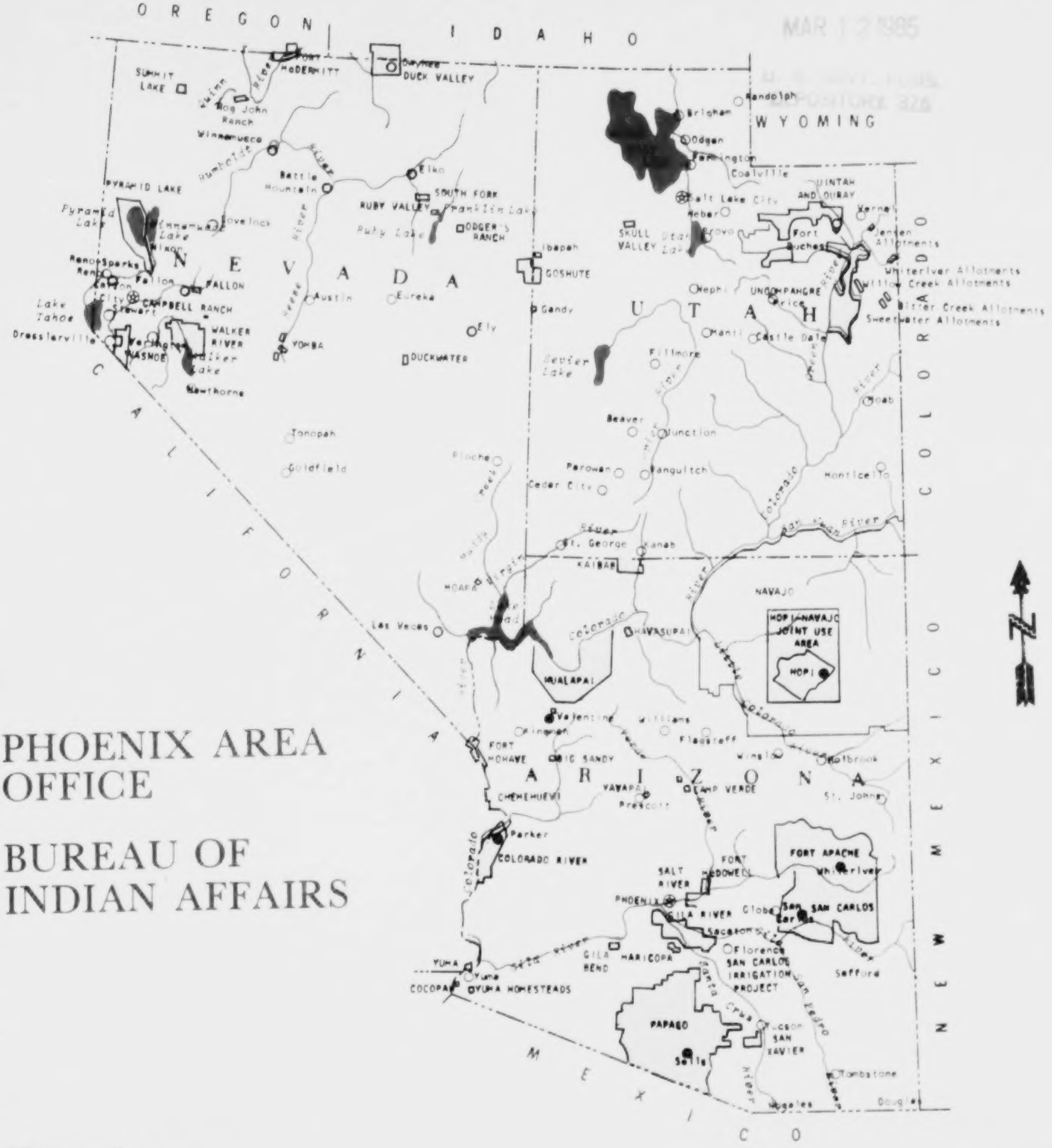
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FOREWORD

Membership in an Indian tribe is not a matter of choosing between desirable and undesirable applicants. Membership is often defined by the tribal constitution, which is the voice of the whole tribe. Federal law (the Indian Civil Rights Act especially) as well as tribal law affects tribal membership rolls. The legal nature of enrollment can create problems for tribes if it is not appreciated.

The personal side of enrollment can also create difficulties. Pressures from family or friends may make enrollment jobs uncomfortable. The task of finding records and documenting enrollment actions further complicates enrollment.

Over the years, the Bureau of Indian Affairs has developed ways to help tribes deal with the legal, personal, and record-keeping problems of enrollment. There are several reasons for Bureau involvement in tribal membership rolls. Tribes have asked the Bureau for assistance in preparing tribal rolls for tribal purposes. The Bureau also has a legal responsibility to approve ordinances and amendments. Most of the records used in enrollment are Bureau documents.

This text is primarily a training document designed for use in the enrollment course presented by the Phoenix Area Office. In this course, the text is supplemented by handouts, lecture, and discussion. Because it is likely that the text will also be used as a desk guide, readers should understand how best to use it. The text offers information and recommendations on enrollment. It explains legal requirements and offers the wisdom of experience in enrollment up to the time this text goes to press.

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LaFollette Butler and Karen Ducheneaux of the Phoenix Area Office saw the need for a formal enrollment text and course and initiated a project to meet the need in 1977. Sharlot Johnson recognized the importance of keeping the enrollment materials complete and current; her experience and insight contributed strongly to this effort. Curt Geiogamah, the Area Director, lent his support and encouragement to the project.

Joyce Parks Rhode, with help from Louise Lynch, prepared the first and second editions of this text for the Phoenix Office. The following people are owed thanks for providing important technical enrollment information and essential insight beyond tribal enrollment: Paul Smith, Sharlot Johnson, Mayme Aarni of the Phoenix Area Office; Janet Parks and Mitchell Bush of the Central Office in Washington, D.C.; Fred Carr, the Enrollment Committee, and staff of Gila River; Lee Moon of Goshute; Karl Johnson, Gary Norton, and the Enrollment Committee of the Hopi; and Jack Woods of Te-Moak in Elko, Nevada. In addition, we want to thank Norris Cole and the people from Ely, Duck Valley, Goshute, Duckwater, and Te-Moak (South Fork and Elko) who attended the Enrollment Workshop in Elko, Nevada, in April 1977.

PRINCIPLES FOR GUIDANCE

1. The Rule of Law

The phrase "the rule of law" means that laws NOT men rule or govern society, even though men make the laws. Lawmakers try to write laws that contain solid, basic principles. They cannot write laws that govern all possible situations, so they write laws of general application and let the courts decide how the laws of general principle apply to very specific situations.

See Chapter 2

2. Due Process

Due process is a set of rules which limits the methods government can use to enforce and apply laws. Due process enables everyone to know "the rules of the game"; they know what to expect when the government enacts or applies a law.

There are three key elements to remember in providing due process: notice, hearing, and the right to appeal.

See Chapter 4

3. Equal Protection

Equal protection is a requirement that governments pass only those laws that have reasonable consequences. The equal protection requirement ensures that governments "play fair" in determining how laws affect individuals.

See Chapter 4

4. Interpreting Law According to Legislative Intent

Legislative intent means *why the law was passed* – what it is supposed to accomplish. The first rule of interpreting any law is that the law should be understood in light of what the legislative body intended it to do.

A legislative history is a written record of what was said and written about a bill before it was passed and became law. It is an excellent source for determining legislative intent.

See Chapter 6

5. Conditionality

All enrollment is conditional. The condition may only be descent from a member, or the conditions may include being a U.S. citizen, residency, filing a declaration of intent to maintain membership, or even more.

The key is that all enrollment applicants must *prove* they meet all the membership conditions stated in the tribal constitution.

See Chapter 7

6. Burden of Proof

The phrase "burden of proof" means (a) the job of persuading someone that something is true and (b) the job of producing evidence. In enrollment, *the legal burden of proof is on the person who applies for membership.* For example, if a man cannot find his birth certificate or cannot prove that he has the proper degree of Indian blood, it is his problem. He must prove to the enrollment decision-makers that he has the right to membership. The enrollment personnel are *not legally responsible* for finding proof of the man's membership.

See Chapter 15

7. Documentation

This is a basic principle to rely on in making membership decisions: NOTHING IS TRUE UNLESS YOU HAVE WRITTEN EVIDENCE THAT IT IS SO.

See Chapter 10

8. Organizational Review

Each level of the organization reviews the activities of the level below it. Organizational review decreases the chance for mistakes to go unnoticed because there are several levels of review built into a system. This division in an enrollment system reduces the political dimension of enrollment because the three levels of activities are the responsibility of three different groups of people.

See Chapter 9

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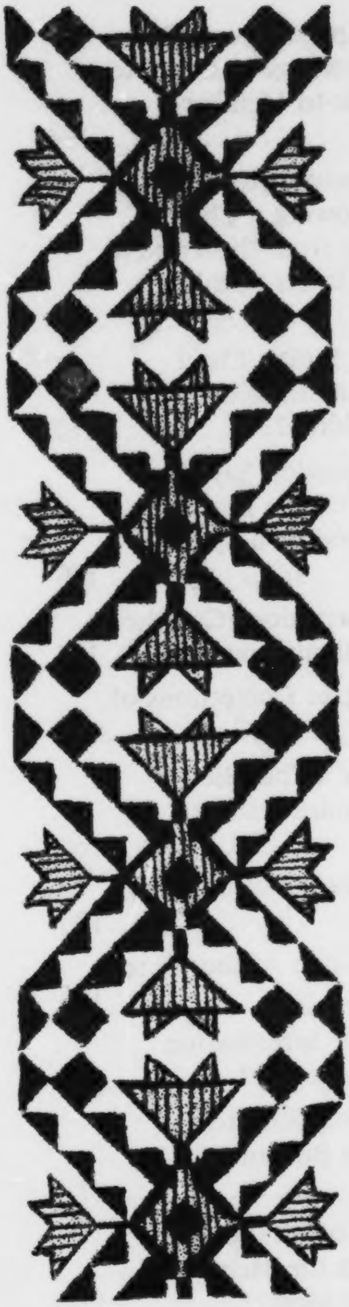

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CHAPTER 1

The Nature of Tribal Membership

Membership in a Tribe Is Like Citizenship in a Country

Membership in an Indian tribe, band, or colony is a very special kind of membership. It is different from membership in a church, fraternity, the Girl Scouts, or any other *voluntary association of people.* Membership in an Indian tribe, band, or colony is like citizenship in a country.

Many tribal leaders and tribal members understand this. But because many do *not* understand the special nature of tribal membership, issues and problems of membership and enrollment are often not taken seriously. Sometimes these issues are treated like membership in a club. For example, people who want to become members of a club can be "blackballed" just because current members don't like them. Or, people who want to become members of the tribe and are related to or friendly with current members receive special treatment.

Benefits and Responsibilities

This misunderstanding of the nature of tribal membership is also the reason why many tribal members and applicants for tribal membership see membership only as a ticket to benefits. They do not think of the responsibilities they owe to the tribe and to the tribal government in exchange for the benefits of membership.

Tribe: Voluntary Association or Political Entity?

To understand how membership in a tribe is like citizenship in a country, look at the difference between a voluntary association of people (church, fraternity, Girl Scouts) and a political entity (tribe, city, state, or nation).

A political entity is a society of people run by a government. The people grant the government a legal monopoly on or control over the use of physical force in the society. So, the government can legally force people to obey its rules by imprisoning and fining people who refuse to obey.

The rules a government makes are called laws. A law is ". . . that which must be obeyed and followed by citizens. Those who disobey are subject to legal consequences." The "legal consequence" of disobeying a law of government may be imprisonment or fine by the government. This is what makes a political entity different from other types of associations people belong to: the government's legal monopoly on the use of force.

Voluntary associations of people do not fit this definition. A club may make rules for members, but this does not make the club a political entity. The club cannot legally use physical force to make its members obey the rules. The club can fine its members for disobedience, but has no legal power to collect the fine. The club can expel a disobedient member from the club, but cannot imprison the member. If the club tried to use physical force against a member, the club itself would be breaking the law of a political entity.

It should be clear from this discussion that an Indian tribe is a political entity – not a voluntary association. A tribe is organized under a government. The tribal government makes laws which must be obeyed by the members. If a member disobeys a tribal law, the tribal government may fine or imprison that member.

People who "belong" to a political entity are called citizens. For example, a person is a citizen of the United States; a citizen of the State in which he or she lives; and a citizen of the community, town, or city in which he or she lives. Therefore, a tribal member can be called a citizen of a tribe because he or she "belongs" to that political entity called a tribe.

What Is a Citizen?

A citizen is one who owes allegiance or loyalty to a government, has a right to the protection of that government, and has responsibilities to the government. There is a give and take relationship here. The citizen or tribal member *gives* allegiance, loyalty, obedience, and support through voting and active participation. The citizen or tribal member *takes* protection, benefits, stability, and general welfare.

Rights and Duties

Tribal members often say, "We have a right to self-government and self-determination," or "We have tribal sovereignty." By these statements they *mean*: "We are a political entity with the right to make laws and to compel obedience to our laws. The members of our group owe faithfulness and obedience to the group's laws in exchange for the protection and benefits that come from the group."

Some people might ask: "What protection and benefits do we get from our tribe? The Federal Government funds and operates most of the programs on our reservation. Just what does my tribe do for me?"

Benefits to Members of a Tribe: Not to Individuals

It is true that other governments fund and operate many programs on most reservations. But, with minor exceptions, most of the benefits and protections that the tribal government doesn't provide are provided by other governments to tribal members *because they are members of a political entity, the tribe.*

Tribal governments and tribal leaders have battled long and hard to preserve tribal existence so that those who ask the questions above can go on being tribal members, receiving these special benefits and protections through their tribe.

Some tribal governments have lost the battle. Some tribes have been terminated and "members" no longer receive special benefits and protections. But many tribal members can thank their tribal government and other governments for roads, schools, clinics, utilities, general assistance, law enforcement, and a vital community to live in.

Isn't it right that tribal members owe faithfulness, obedience to the law, and participation in tribal affairs to their tribal governments in exchange for the benefits and protections that come to them through belonging to that political entity, the tribe?

Membership and Citizenship

Some people don't like this comparison of tribal membership to citizenship, usually for reasons they cannot explain. They feel that tribal membership is different, "special." Tribal membership *is* special. Fewer than a million people in the United States have this status. And the bonds of tribal membership are usually stronger than those of the people in Anytown, USA. The fact remains, however, that tribes are political entities run by governments which provide benefits and protections to members. And in exchange, members owe something to their tribes.

Is citizenship too exalted a term to use for "mere" membership? If the residents of Anytown, USA, can call themselves citizens of their community, surely people who live on the Papago Indian reservation or in the Elko Colony can call themselves citizens.

This is not to suggest that the word "member" be replaced by the word "citizen." This text uses "member" throughout. The comparison is made to emphasize the importance of membership decisions and procedures. Enrollment has serious consequences for individuals and for tribes as political entities. Therefore, it is a key to effective tribal government.

Enrollment: Citizenship Decisions

Determining who has a right to citizenship in an Indian tribe is as complex as it is important. It requires an understanding of tribal government, knowledge of tribal and Federal laws affecting enrollment, a taste for detective work and record keeping, and an ability to work under pressure.

Defining the Tribal Citizens

Requirements for tribal citizenship are stated in constitutions which vary from tribe to tribe. Persons applying for citizenship may be required to meet qualifications such as Indian or tribal blood degree, descendancy from someone on the base roll of the tribe, descendancy from a member, residence on the reservation, or adoption by the tribe.

Rights of Citizenship

As explained earlier, citizenship means having rights and privileges which are guaranteed by the government. The rights of U. S. citizens are protected by the Federal Government. Some of the rights of U. S. citizenship are to organize peacefully, to petition the Federal Government to correct injustices, to vote if qualified, to travel freely throughout the nation, and to own property.

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Responsibilities of Citizenship

In return for protection of these rights, citizens have responsibilities to their government. Their basic responsibility is to participate in government. Active, responsible citizens study issues and candidates before they vote. They obey the laws of their society so that order is maintained. When a law seems unfair, they work in the proper legal ways to change it.

Identification of Citizens

All governments need to know who their citizens are in order to protect their rights and privileges. Determining who qualifies as a citizen and keeping accurate records of births, deaths, marriages, addresses, and other essential information goes on in nations, states, and cities all over the world.

Governments must also identify and keep lists of those who can rightfully participate in government. It is especially critical for tribal governments to know who their citizens are so they can represent all citizens fairly.

Tribal Membership/ Citizenship

In addition to having the rights, responsibilities, and privileges of U.S. and state citizenship, native Americans enjoy tribal citizenship if they meet the legal requirements for membership stated in their tribal constitutions. Tribal citizens have many rights – land assignments, tribal programs, and Federal health, education, and social services.

Equally important are the social and personal benefits of tribal citizenship. These benefits come from belonging to a community of people who share a language, a past, and cultural traditions, and who plan for the future together. Tribal citizens do not have some of the responsibilities, such as property taxes, that other nations impose on their citizens. But a tribal citizen's basic responsibility of participating in government is critical to the effectiveness of Indian tribal, political, and economic organizations.

Tribal governments do not differ from other nations in the administration of citizenship. They need to maintain a current tribal membership roll and to train people to enroll citizens properly and legally. They also need an office and staff appropriate to the size of the tribe to keep the tribal roll current. A well-planned enrollment system is a necessity for good tribal government.

Past Tribal Membership/ Citizenship

In the past, most Indian political organization was based on kinship. Authority and leadership were passed down through ruling families, agreed to by the leaders of family groups or clans, or taken by force. Tribal government varied from simple social groups to complex constitutional governments. Among more loosely organized tribes, family relationships, common language, and tribal custom decided who belonged to the tribe. Each of these factors had the weight of law. For example, to be recognized by the tribal leaders as part of the tribe was enough to establish the right to membership or citizenship in many cases. Among tribes with formal constitutions, however, citizenship requirements were stated in the constitutions.

Tribal Membership/ Citizenship Today

Today, tribal citizenship is different. It requires legal procedures and proof. To recognize or "know" tribal citizens in the old way disregards the written constitution that has established a set of rules determining who is entitled to be a tribal citizen. When tribal citizens voted to approve the constitution, they stated in the membership provision exactly how past, present, and future citizenship shall be determined. Therefore, the constitutional requirements do not disregard tradition but establish these traditions as written law which can adjust to changing social patterns.

The social realities of contemporary life make it impossible to determine citizenship in the old ways. Tribal citizens have moved off the reservation and lost contact with the tribe. They have married into other tribes and other races. Children have been adopted out of the tribe and then returned years later wanting to be enrolled. People who may or may not have the right to citizenship apply so they can qualify for Federal benefits, tribal assets, and tribal programs. By defining citizenship/membership requirements in the constitution, the tribe can preserve its identity for the future.

Enrollment and Law

There are also legal complexities to deal with. The constitutional form of government was adopted by many (although not all) tribes in the 1930's. This form of government requires adjustments in the administrative and political workings of the tribe. In addition, Federal law affects enrollment procedures and decisions. For example, the Indian Civil Rights Act of 1968 guarantees to reservation residents many rights under tribal government. The right that most directly affects enrollment is the right to due process and equal protection under tribal law.

It is easy to see, then, that the survival of tribal self-government requires that everyone involved in enrollment, from the Tribal Council and the Enrollment Committee to the Coordinator and staff, know the impact of tribal and Federal law on citizenship in the tribe.

CHAPTER 2

Tribal Law and Government

This chapter begins with a brief sketch of the origin of many tribal constitutions. The various functions of the tribal constitution and its provisions for orderly change are described. The chapter concludes with a discussion of the rule of law, the underlying principle of tribal constitutions.

Background

Many years of unsatisfactory Federal policies on Indian affairs contributed to the desperate condition of Indian tribes in the twentieth century. Some policies were based on land greed. Others intended to end tribal life and force Indians to accept the white way of life. This is called assimilation. The policy of assimilation was adopted in the late 1800's and was supported by the General Allotment Act of 1887.

Attempts to end tribal existence included breaking up the communal system of landholding by alloting the land to individuals. Tribal religious and cultural practices were prohibited. Children were removed from their families to off-reservation boarding schools. These efforts were directed at one goal: to turn Indian people in a new direction, away from tribal existence.

The response of Indian people contributed to the continuing breakdown of tribal existence. This intended destruction of tribal life came on top of centuries of war, poverty, and disease. Some Indian people surrendered and converted to white ways. Some adopted an attitude of passive resistance. Few tribal leaders could see a future for tribal life in these years, and tribal government seemed a hopeless operation.

The old forms, laws, and styles of tribal life, especially of tribal government, could not meet either the demands of twentieth-century life or the pressures of Federal policy. Tribal governments had not been able to cope with reservation confinement and the loss of tribal land.

Many Indians and non-Indians refused (and still refuse) to accept the fact that the traditional way of life was not working, especially in government. Anything that interfered with traditional ways was seen as bad.

But tribal existence, even before Columbus, had always changed to meet changing times, conditions, and needs. If it didn't change, it was destroyed, according to archaeologists. In early times, however, the change was slow, almost invisible, and not planned. The pace of change would have to speed up if the tribal way of life was to survive in the twentieth century.

For example, most tribes governed by consensus. That is, there had to be 100 percent agreement among tribal members on a particular course of action. If there was no consensus, a tribe was willing to wait the necessary month, year, or 10 years until everybody agreed. Or if the conflict could not be resolved, the dissident group could wander off to another territory and start its own tribe. These alternatives no longer existed in the twentieth century.

Tribes now had to act and act quickly, if for no other reason than to act before someone acted for them. Wandering off the reservation was dangerous in the early 1900's. Majority rule instead of consensus became essential so that decisions could be made faster.

Further, in the old days, every tribal member learned the tribal laws from birth onward. The law was handed down orally from generation to generation, usually with the reason or legend behind the law included. It was enough that every tribal member knew the law. If a Shoshone did not know the Paiute law and broke it by mistake, he paid the consequences. But when it became necessary to co-exist with the dominant culture, other governments and other people had to know tribal laws. Tribal laws – old and new – had to be written down.

The simple act of writing a law changes the framework in which the law exists. If one does not understand an oral law, one simply asks the "giver" to explain more fully. The givers (writers) of a written law may be dead and gone, miles away, or disagree among themselves over what was meant when a particular word was used. The meaning of written law is therefore interpreted by judges according to established rules of interpretation.

For these reasons, by the 1930's it became obvious that, if tribes were going to survive at all, major changes in the old forms had to be made. On the other hand, too much change would be self-defeating. The right mixture of old and new had to be found.

John Collier, father of the Indian Reorganization Act of 1934 (IRA), said it best: ". . . It is a wild if alluring fantasy that they (the tribes) might live on, that they might use the devices of modern economic life, and pragmatically take over the concepts of modern science and yet keep that strange past of theirs. . . ."

Collier was not a dreamer. As Commissioner of Indian Affairs from 1932 to 1944, he slowly turned his fantasy into law (the IRA) and then, later, into fact. For those tribes which chose to accept it, the IRA reversed assimilation by stopping allotment, making provision for the return of lands, providing money for reservation economic development, and allowing tribes to reorganize their governments along modern lines.

Knowing Indian people better than they knew themselves, Collier did not wait for the tribes to act. Armed with a "model" constitution, he and his people reorganized tribes who voted to accept the IRA. He did not particularly care, at that point, about differences between tribal members or between Indians thrown together on a reservation or between tribes. He believed that if he could secure the foundations of a new tribal existence before the tide turned (as it was to turn in 1953 with the termination policy), the tribes would have long and productive years in which to unscramble the mess. Later, they could establish the essentials of tribal customs.

If all tribal constitutions look alike . . . if a census roll specified in a constitution does not exist . . . if the wrong people are locked into membership in the wrong tribe . . . if the constitution is inadequate . . . it can be blamed on Collier and company.

But why waste energy on blame and anger? Tribes are still here. Tribal existence survived the termination era (which Collier saw coming). There are means available to change much of what is not wanted or to restore most of what was lost in the shuffle. There are lands and assets – of whatever size. There *is* a future for tribal existence, however difficult. Self-government under a constitution provides tribes with the means to survive in the twentieth century.

The Tribal Constitution Today

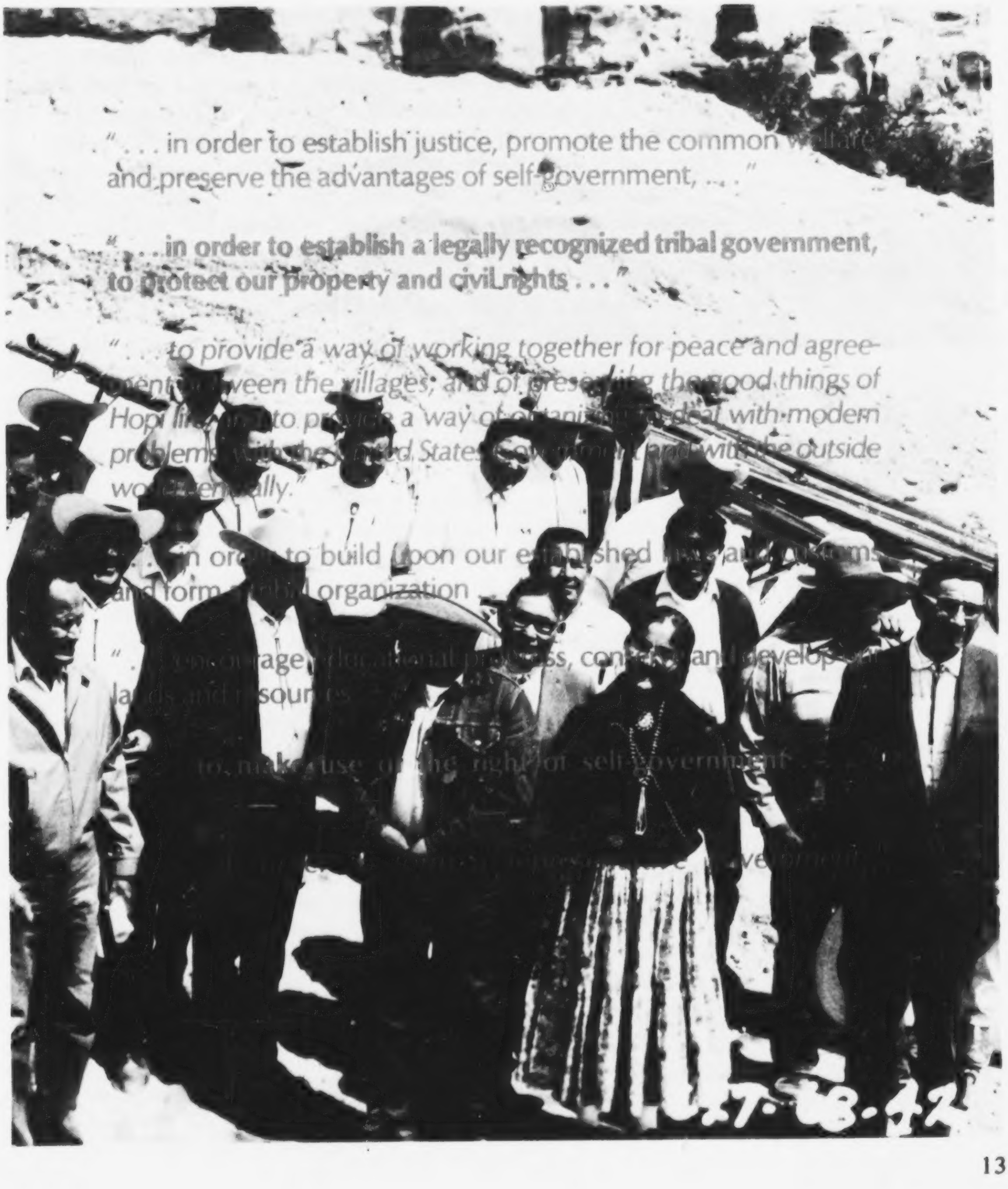
The tribal constitution serves many purposes in tribal government. The survival of tribal life depends largely on the tribal organization's ability to meet the needs of its members and to represent the tribe as a whole to the outside world. A group of people cannot act with the authority and character of one, unified group without an organization or form of government. The constitution expresses the tribe's will to act as one through a particular form of government. The constitution establishes and describes this form of government and provides a means to ensure that the government responds to the people. If the constitution does not comply with tribal members' wishes, it contains the method for orderly and legally changing, or amending, the document.

Most if not all tribal constitutions also define the territory in which tribal law governs. Substantive law, which creates, defines, and regulates people's rights, is established in the tribal constitution. Procedural law is also in constitutions. Procedural law establishes, for example, *how* officials are elected to or recalled from office. Procedural law is discussed at length in Chapter 5, The Enrollment Ordinance.

A tribe's constitution reflects what rights the members want to preserve and how they want to operate. Individual tribes express their desires differently. As a result, no two constitutions are exactly alike. All tribal constitutions, however, contain several basic elements.

The Preamble

In the preamble or introduction to the constitution, tribal members state why they are organizing under the form of government that is



". . . in order to establish justice, promote the common welfare and preserve the advantages of self-government, ..."

". . . in order to establish a legally recognized tribal government, to protect our property and civil rights . . ."

". . . to provide a way of working together for peace and agreement between the villages, and of preserving the good things of Hopi life, and to provide a way of organizing to deal with modern problems, with the United States Government and with the outside world generally."

". . . in order to build upon our established laws and customs and form a tribal organization . . ."

". . . to encourage educational progress, conserve and develop our lands and resources . . ."

". . . to make use of the right of self-government . . ."

[illegible] government

described in the constitution. These statements reveal what tribal members expect their constitution to do for them. Almost all tribes offer one or more of these reasons for adopting their constitutions: to build a tribal organization upon established traditions, to form an orderly, representative government, to provide for tribal membership, to promote the welfare of tribal members and their children, to exercise certain rights of home rule, to secure the blessings of freedom and liberty, to develop tribal resources, and to conserve the tribal territory. The constitution itself is designed to fulfill these expectations.

Defining and Limiting Power

A tribal government has authority because the tribal people granted the government specific power through the constitution. The government may exercise *only* those powers the constitution *states* and *implies*. The tribe can be free from rule by power-hungry or unreasonable people because the constitution limits the government's power.

The constitution empowers the tribal governing body to perform specific functions for the tribe. These powers limit the government's authority because public officials can do nothing in the name of the tribe that is not specifically or generally stated or implied in the constitution. A tribal government may decide it would like to act officially in some way that would benefit tribal people. However, if the constitution does not grant the power to act this way, the act cannot be done. The government cannot threaten the tribe's freedom and survival – even though the act appears to be for the tribe's welfare – by ignoring the constitution.

Membership

The tribal constitution says in the membership provision who will make up the tribe and to whom the government must respond. The membership provision establishes all the requirements a person must meet to have the rights and responsibilities of membership. Since a tribe's uniqueness is maintained by its members, establishing these requirements in the constitution secures the tribe's special character. If future members want to restrict or loosen the requirements for membership, they should do so only by amending the constitution.

Orderly Change

If the leaders abuse their power, the constitution provides a means for their orderly removal, recall, or replacement in the next election. These procedures to elect, remove, recall, and replace councilmen and officers ensure that the tribe's leadership meets the members' needs and earns their respect and trust.

Amendment

The constitution may contain a provision that no longer reflects what the people want. The Tribal Council may feel it knows how tribal people want the provision altered. An easy way to change the constitution is for the Council to pass an ordinance stating what it thinks the people want their constitution to say. However, this procedure is illegal. The writers of the constitution knew that future members would want to change the constitution, so they provided a legal, orderly method for changing it – an amendment. The Tribal Council can propose the amendment to the people, but the members of the tribe must vote to approve or reject the amendment.

Although it is binding law, the constitution itself contains a procedure to change the constitution to keep it responsive to changing needs and times. In this way, the constitution continues to represent the will of all the people.

Territory

The tribal constitution also defines the territory in which tribal law governs. When the U. S. Government agreed to tribal organization by constitutional means, it agreed to respect the tribe's right to impose its laws in the territory defined by the tribe. The territorial provision, then, provides the setting where tribal self-government takes place.

Government-to-Government Relationship

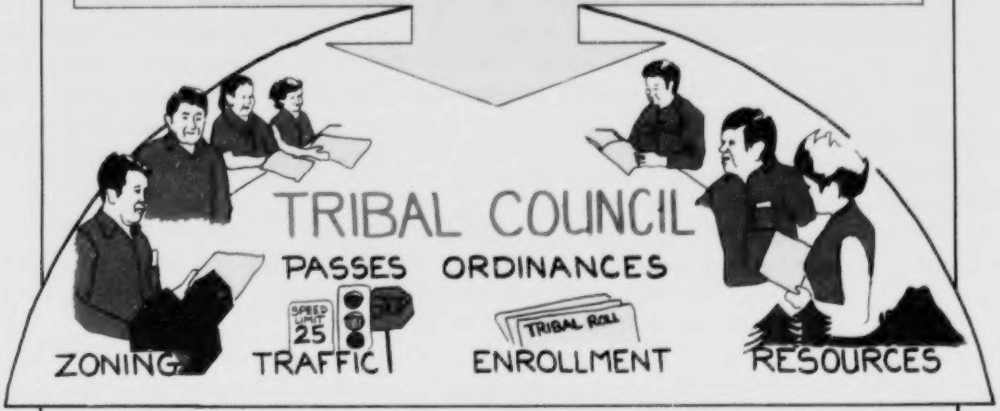
By approving the constitution that the tribe adopted, the U. S. Government agreed once again that the tribe had a right to self-government. The tribal constitution, therefore, represents an understanding between the United States and the tribe about how the tribe will govern itself. When a tribe disregards its constitution, it undermines its right to self-government by breaking its own laws and by disregarding its agreement with the United States.

Government-to-People Relationship

It is equally important to operate according to the constitution for the benefit of tribal members. The constitution is an agreement between the tribal government and tribal members. The government will meet the needs and goals that the members stated in the preamble. A government that fails to fulfill the needs and expectations of its people can be voted out of power. When a government disregards the constitution that established the machinery of

Constitution

Establishes the Government for the People


SPEED LIMIT 25
STOP
TRIBAL ROLL

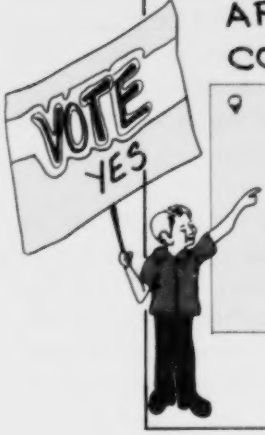
TRIBAL COUNCIL

PASSES ORDINANCES

ZONING TRAFFIC ENROLLMENT RESOURCES

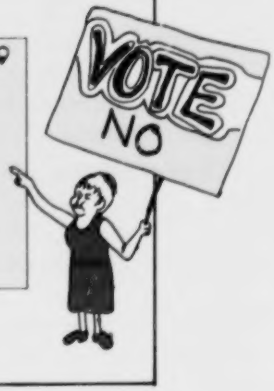
Article X - Amendments

THIS CONSTITUTION MAY BE CHANGED BY A MAJORITY VOTE OF TRIBAL MEMBERS WITH REVIEW AND APPROVAL OF SECRETARY IF CONSTITUTION SO PROVIDES



Amendment I

SECTION 1B OF ARTICLE II MEMBERSHIP SHALL BE CHANGED FROM 1/2 INDIAN BLOOD TO 1/2 MATUCK BLOOD



government, it destroys the freedom of tribal members and threatens orderly, progressive tribal existence.

Conclusion: The Rule of Law

The phrase "the rule of law" means that laws NOT men rule or govern society, even though men make the laws. Lawmakers try to write laws that contain solid, basic principles. They cannot write laws that govern all possible situations, so they write laws of general application and let the courts decide how the laws of general principle apply to very specific situations.

Lawmakers try to be objective so that laws reflect the public interest and not their own personal interests. They try to prevent abuses of power by a few persons by building limits and definitions of power into the law. Lawmakers develop laws for everyone to follow so that society is free from both chaos and tyranny.

The tribal constitution is an example of the rule of law in operation. Adopted by tribal members years ago, a tribal constitution represents their agreement to be governed by it. The writers of the constitution agreed on basic principles of organization, operation, and behavior that would govern their lives.

Realizing that the future cannot be predicted, the writers made the constitution a flexible document. When a provision in the constitution fails to meet the members' needs, the constitution itself provides the way to change the provision.

CHAPTER 3

Federal Impact on Enrollment

Unless Congress limits a tribe's power to decide tribal enrollment questions by enacting specific laws, tribes have the right to make membership decisions. Tribes can establish the requirements for membership, the procedures for enrollment, and the rights which go with membership. This right stems from the nature of Indian tribes. As political entities with some sovereign powers, tribes have the basic power to determine who tribal members are.

The Federal Government, however, limits tribal power to determine membership in several ways. Review and approval powers of the Secretary of the Interior which derive from the Indian Reorganization Act are described in this chapter. U. S. Constitutional law and the Indian Civil Rights Act are also discussed in relation to enrollment. Finally, this chapter treats the meaning of Federal court decisions and cases on enrollment.

Federal Review and Approval of Tribal Rolls

The Secretary of Interior is ultimately responsible for approving tribal rolls that are used to fulfill Federal purposes. The enrollment of members for tribal purposes, such as voting in tribal elections and holding office, requires Federal review or approval when the tribal constitution requires it.

Tribal constitutions adopted under the Indian Reorganization Act were approved by the Secretary of Interior. Therefore, changes can only be made after their adoption with the mutual agreement of the tribe and the Secretary, or by an act of Congress. These constitutions cite a document that indicates the membership of the tribe at the time the constitution was adopted and describe requirements for future membership. Most constitutions provide for an enrollment ordinance to be passed governing loss of membership, adoption and procedures governing future membership. The Secretary then approves such an ordinance if the tribal constitution provides for Secretarial approval. If a tribe has no approved enrollment ordinance, and its constitution so provides, then the Secretary must approve individual membership actions.

The Secretary can use his approval authority, or he can delegate responsibility to Department of Interior employees. The delegation of power begins with the President of the United States. The President, as Chief Executive, is ultimately responsible for the Department of the Interior, the Secretary, the Commissioner of Indian Affairs, and the Bureau. Within the Bureau, review and approval are the legal responsibility of the Secretary, but a Bureau employee may actually review and approve enrollment actions.

Review of Tribal Law

Tribal constitutions often require the Secretary, the Commissioner of Indian Affairs, or Bureau employees to review tribal laws. The purpose of the review is to aid tribal governments. Weaknesses and problem areas can be found and corrected before individuals or tribes are harmed. In addition to this formal required approval, there is an informal level of review.

Bureau employees are familiar with the kinds of problems tribes encounter. They help write ordinances and constitutional amendments, advise tribes on the application of Federal requirements, assist applicants to obtain evidence, and counsel the tribe about its enrollment process. This daily interaction represents an informal level of review that helps tribes act according to Federal and tribal law.

In reviewing an enrollment ordinance, the Bureau would ask these questions:

- Is it in line with Federal and tribal law?
- Does it impose any obligation on the United States?
- Does it contain anything that might hurt the tribe?
- Is the language open to interpretation or is it precise?

The tribe should ask these questions in writing all tribal ordinances.

There are usually time limits on the Federal parties to review the ordinance and on the tribe to have an action reviewed.

Approval of Tribal Law

Tribal constitutions may or may not require Secretarial approval of tribal membership rolls for tribal purposes. When tribal constitutions empower the Council to pass ordinances governing membership, however, the ordinance is not effective until it is approved. When a tribe does not have an approved enrollment ordinance, certain membership decisions must be approved before they can be official. Normally, there is a time limit on the Secretary to approve these tribal actions.

Federal Laws

Congress can pass laws which limit the tribes' right to determine membership. Tribes' enrollment rights are specifically limited in laws that establish membership for the distribution of tribal assets. The Indian Civil Rights Act (ICRA) of 1968 is a law that affects the kinds of membership laws tribes can pass and the way membership requirements are applied.

Case Law and Tribal Membership Questions

Background

The courts play an important role in U. S. Government. Laws are made as the problems of how to apply the U. S. Constitution and laws are presented to the courts. The courts decide only which side of a case is right and which is wrong. But to make that decision, they must determine what law applies to the case. Once a court has decided a case one way, it will probably decide other similar cases in the same way. It will also try to apply the "case law" to other cases which are different in facts but similar in principles. Courts have operated this way for hundreds of years.

Judges make decisions based on earlier decisions. They do not often go against the weight of authority and tradition. For this reason, it is said that "the dead hand of the grave still [makes] rules." An example of this principle is the burden of proof (discussed in Chapter 10). English judges decided the rules on burden of proof hundreds of years ago. The principle of burden of proof – that "a man who wants to change things should have to show why" – is very general. Court after court applied the principle to case after case, even though each case had different facts. Today, the rules on burden of proof are very similar to the rules established many years ago.

Case decisions reveal how a law is being read or understood by judges. Therefore, all tribes should be aware of Federal court decisions on cases concerning one specific tribe because the law is likely to be applied in the same way again.

Examples of Enrollment Case Law

Two important examples of case law come from the turn of the century. They contain the twin principles governing tribal membership rolls. They also illustrate how law is made more specific by decisions on individual cases.

The first of these cases, *Waldron v. United States* (143 F. 413, 8th Cir. 1905), involved a woman of 5/16 Sioux blood who had been recognized as a tribal member since her birth. She was refused recognition by the Interior Department, however, because she did not have enough tribal blood to meet the Department's definition of "Indian." When the case came to a Federal court, the judge decided in favor of the tribe. "Whether or not a person is an Indian," he insisted, ". . . is to be determined, not by the common law, but by the laws or usages of the tribe. . . ."

This case represents one of the many judicial affirmations of a primary membership principle: *The tribe has basic authority to determine all questions of membership for tribal purposes.*

A second principle, which balances the first, was upheld in a case decided two years later. In *United States ex rel. West v. Hitchcock* (25 U.S. 80, 1907) a white man adopted by the Wichita was denied a share in the tribe's assets when they were distributed by the Secretary of the Interior. A court decision upheld the Secretary's action. The court reasoned that the Secretary holds tribal assets in trust and is responsible for seeing that they are properly distributed. Therefore, the Secretary may approve the list of people who are to share in the distribution. In other words, *when trust assets are being distributed, the Secretary of the Interior has supervisory authority over the membership actions of the tribe.*

The trust relationship between tribes and the Federal Government and the nature of the Secretary's authority over a trust asset distribution will be discussed much further in Chapter 12. It is worth mentioning here, though, that if a tribe follows its own laws when making membership decisions, the Secretary will not be inclined to challenge the tribe's membership roll when assets are being distributed.

Law and the Bureau of Indian Affairs

Policies of the Bureau of Indian Affairs, of course, are governed by the same laws and cases that affect tribes.

Bureau Policy Statements

Sometimes a particular administrative duty or procedure requires that uniform rules be established. Or the application of a law may be uncertain. When a matter like this arises, a governmental department may issue a *policy statement* to regulate the situation.

Policy statements of the Bureau are issued by the Assistant Secretary or the Commissioner of Indian Affairs. They are made to remove confusion and ensure equal treatment of individuals. Policy statements basically establish a course of action in response to a law.

Bureau policy statements are important to be aware of. They establish regulations that a tribe will need to follow. The appendix of this book includes a Bureau policy statement on blood degree as an example of the purpose served by policy statements.

Solicitor's Opinions

When a particular situation requires that the meaning of a certain law be clarified, a tribe or Bureau official may turn to the Solicitor's Office of the Department of the Interior for help. The Solicitor's opinion that is written in response can also give shape to enrollment policy in important ways.

One rather recent Solicitor's opinion of August 25, 1970 (In the Matter of the Enrollment of Mrs. Baciarelli, 77 I.D. 116) provides a good illustration of the Solicitor's function. This opinion also extends some of the legal principles described above.

The case involved a woman who disagreed with her tribe's decision that she was not eligible for membership under the provisions of their constitution. The tribe's constitution, adopted and approved in accordance with law, contained no provision for Secretarial review of enrollment decisions.

The main issue, in this case, had been a point of some uncertainty for both tribes and the Bureau: when, exactly, an individual could appeal to the Secretary a membership decision made by a tribal council and enrollment committee. Before 1970, the Secretary had acted on almost all these appeals from individuals.

The woman took her case to the Secretary. But the resulting Solicitor's Opinion declared that final authority lay with the tribe. The action of the enrollment committee and the tribal council were final, since they were taken under the authority of a constitution that was duly adopted and approved, and that *did not provide for Secretarial review of enrollment decisions.*

In other words, the new ruling established that the Secretary would review individual decisions on membership for tribal purposes only when the tribal constitution or enrollment ordinance provides for this review. If not, and if there is no act of Congress relevant to the tribe's enrollment procedures, the Secretary's approval power will come into play only when there are trust assets to be distributed.

The Indian Civil Rights Act of 1968

Brief History of the ICRA

The Indian Civil Rights Act of 1968 was the product of much Senate study between 1961 and 1963. Senate Resolution 53 authorized the study and allowed it to include *all* matters relating to Indian civil rights. The Senate asked questions about Indians' constitutional rights relating to tribal, state, and Federal authority. In 1965 a series of bills was introduced. Their purpose was to safeguard Indians' civil rights. Senator Ervin added his proposed bill about Indian rights to the overall Civil Rights bill. The Indian Civil Rights Act was passed in 1968. The provisions extending specific rights to Indians are codified in 25 USC 1302.

Purpose of the ICRA

Congressional hearings on the proposed legislation concentrated on constitutional rights concerning protection under criminal law and tribal court procedures. Congress wanted to protect the rights of individual Indians against abuses by tribal governments. During the floor debate, Senator Ervin said that the purpose of the bill was "... to confer upon the American Indians the fundamental constitutional rights which belong by right to all Americans."

There is some evidence in the history of the legislation that Congress believed that the tribes' cultural independence should be considered. Congress wanted to protect individuals but not destroy cultural independence. Some elements were taken out of the bill to preserve traditional Indian culture. For example, tribes can still deny non-Indians the right to vote in tribal elections.

There is, however, no set way to decide the conflict between traditional culture and individual Indian rights. The only solution is to weigh the tribal interest against the individual's right to fair treatment.

Section 8 of the ICRA has the most direct significance for enrollment. The section provides that no tribal government shall "deny to any person the *equal protection* of its laws or deprive any person of liberty or property without *due process* of law."

The key phrases are "equal protection" and "due process." Equal protection is the requirement that governments pass only those laws that will affect all people equally. Due process is the requirement that governments enforce those laws only through established procedures that will protect the individual's rights and ensure "fair play." These two requirements will be fully explained in Chapter 4.

The Martinez Decision

When the ICRA was first passed, everyone agreed that the law supported basic human rights that all governments should preserve for their citizens. But there was disagreement about whether a tribe was allowed to define "due process" and "equal protection" in its own way, or whether it must follow the specific definitions used by the Federal Government.

There was also disagreement about whether the ICRA gave Federal courts the power to hear cases that arose within the tribe. One such case, *Santa Clara Pueblo v. Martinez* (46 USLW 4412, May 15, 1978) again illustrates how a law is expanded and refined through case decisions. Although the technical legal holding of the United States Supreme Court in the *Martinez* case only had to do with the power of Federal courts to hear such cases, the underlying issues suggest important distinctions between individual and tribal rights.

A member of the Santa Clara Pueblo named Julia Martinez, whose husband was not a tribal member, wanted to enroll her children in the Santa Clara Pueblo. The Pueblo's 1939 enrollment ordinance granted tribal membership to children of male tribal members who married outside the tribe, but denied tribal membership to children of female members who married outside the tribe. Julia Martinez felt that the ordinance was discriminatory on the basis of sex. The Pueblo argued that the ordinance reflected a tradition of patrilineal membership that must be protected.

When the case was taken into the Federal court system, the District Court sided with the tribe; a Court of Appeals then sided with Mrs. Martinez. Finally the case reached the Supreme Court, whose decisions guide and bind all other Federal courts.

The Supreme Court decision was a surprise to many people. The Court declared that Federal Courts did not even have the right to hear the case. It found that Congress had not intended Federal courts to hear cases arising from the ICRA, except in very special circumstances involving persons who were in jail; rather, the tribe's own legal forums (tribal courts, grievance committee, etc.) should be used.

Some issues raised by the *Martinez* case have not yet been resolved. Although it was not really necessary for its decision, the Supreme Court decision indicated that if a tribal constitution provided for Secretarial approval of ordinances, a person who believed that one of the tribe's ordinances violated the ICRA might go to the Secretary of the Interior for help, rather than to Federal courts. Unfortunately, the Court's decision did not give any guidance as to when and under what circumstances the Secretary might help nor does it give any guidance as to what the nature and extent of that help might be.

But the Bureau of Indian Affairs and the Secretary have not yet decided what their new policy will be, in light of the *Martinez* decision.

The most important meaning of the ICRA and the *Martinez* decision is that tribes now have the duty to guarantee basic rights to members, applicants, and others within their jurisdiction. Many tribes protect these rights in their own constitutions. And when Congress passes a law that applies to tribes, that law carries as much weight as if it were written into the tribal constitution.

Both Congress and the Supreme Court have shown faith in tribal ability to guarantee due process and equal protection to members. But if tribes disregard the principles of the ICRA, Congress may pass new laws that might take away a tribe's right to enforce these principles itself.

Conclusion

The Indian Civil Rights Act represents a new direction in Federal-tribal relations, one that is not yet fully established. Tribes are more independent and more experienced in government than they have been since the days of subjugation. Tribal governments are now responsible for guaranteeing basic rights (fairness and justice) to members, applicants, and others in their jurisdiction. Today, the powerful rule of law is the mark of Federal authority on tribal government; it is a standard against which tribal governments are to be measured.

CHAPTER 4

Providing Due Process and Equal Protection

The basic idea of the terms "due process" and "equal protection" is widely accepted and at the heart of human rights. These terms mean that governments should treat individuals fairly and reasonably. In other words, tribal governments should write laws, establish procedures under those laws, and apply the laws and procedures fairly to individuals.

This chapter defines due process and equal protection. It shows how these terms apply to tribal enrollment law. It explains how the tribal government can guarantee that due process and equal protection are provided in the enrollment ordinance and its application. Finally, the chapter discusses the requirements that may be placed on the Tribal Council and the Enrollment Committee by the application of the due process and equal protection provisions of the Indian Civil Rights Act (ICRA) of 1968.

Definitions

Due Process

Due process is a set of rules which limits the methods government can use to enforce and apply laws. Due process enables everyone to know "the rules of the game"; they know what to expect when the government enacts or applies a law.

Equal Protection

Equal protection is a requirement that governments pass only those laws that have reasonable consequences. The equal protection requirement ensures that governments "play fair" in determining how laws affect individuals.

ICRA's Provisions

. . . For Due Process

It should be emphasized that ICRA's intent is to guarantee the civil liberties of individual Indians and *not* to intrude upon the independence of tribal government.

ICRA provides that "No Indian tribe in exercising the powers of self-government shall . . . deprive any person of liberty or property *without due process of law*" [25 USC 1302(8)]. This law can be reworded in the following way:

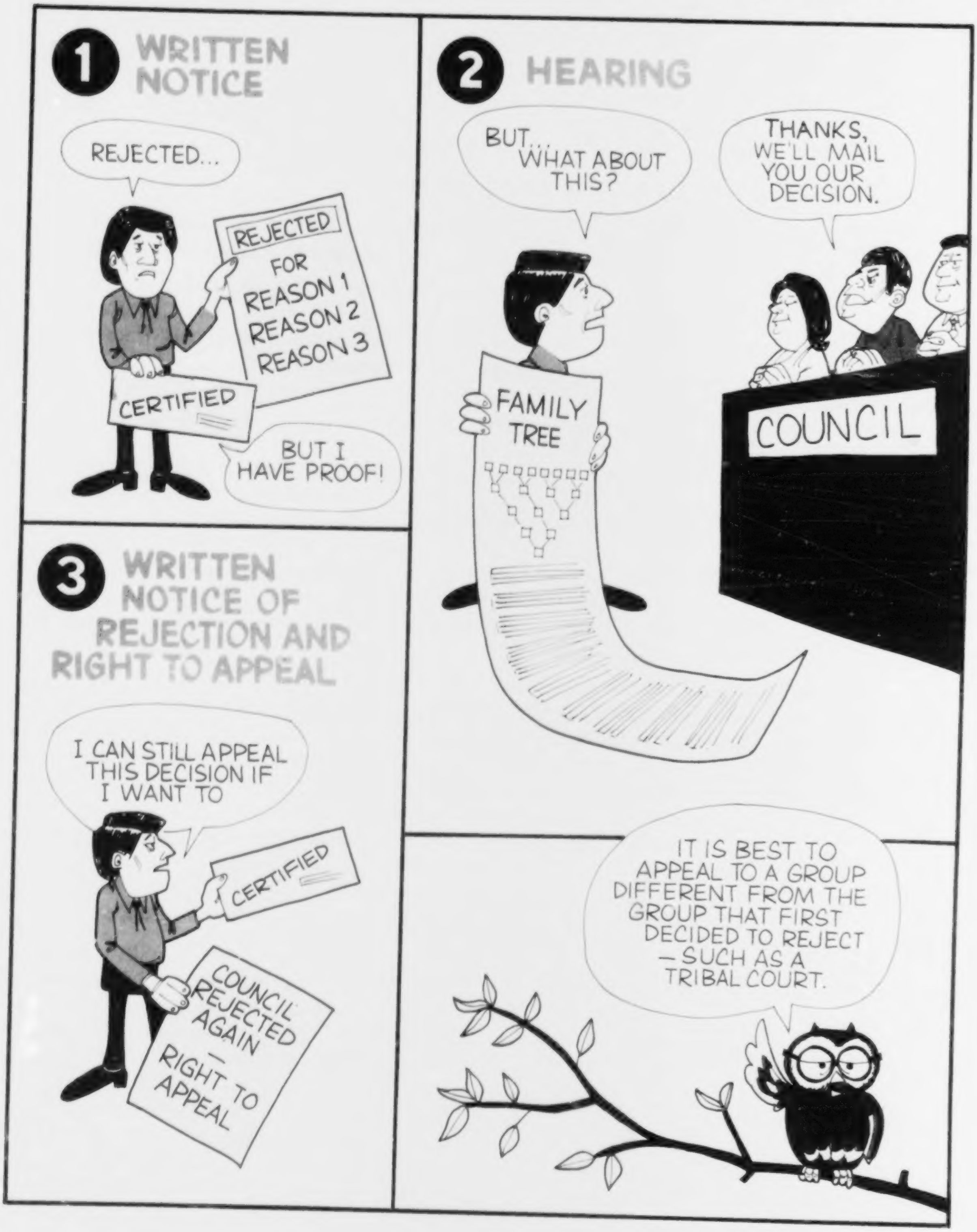
- Indian tribes, acting as governments,
- cannot take away or deny
- any person's fundamental rights
- unless a framework of procedures is established
- which protects the individual
- and promotes regularity of treatment and fairness to all.

Each line of this restatement contains concepts which must be explained. The U. S. courts have been explaining the concepts through case law since the U. S. Constitution was written. Using ideas from many cases, the restatement can be explained. Each line raises a question of definition. These questions are highlighted and briefly answered below.

1. What Is an Indian Tribe?

The first line of the restatement refers to Indian tribes that have been recognized by the U. S. Government as political entities. *Tribes* are required to *do* something in a certain way. But the tribe is broadly defined. Any part of a government that acts officially is covered. If the Enrollment Committee or even just one member of the staff violates the provisions of the Act, the tribe is responsible. The law considers the violation to have been committed by the tribe. The Act then is saying that the tribe or any part of the tribal government cannot take away or deny a person's fundamental rights without due process.

HOW TRIBES PROVIDE DUE PROCESS


1 WRITTEN NOTICE
REJECTED...
REJECTED
FOR
REASON 1
REASON 2
REASON 3
CERTIFIED
BUT I HAVE PROOF!
2 HEARING
BUT... WHAT ABOUT THIS?
THANKS, WE'LL MAIL YOU OUR DECISION.
FAMILY TREE
COUNCIL
3 WRITTEN NOTICE OF REJECTION AND RIGHT TO APPEAL
I CAN STILL APPEAL THIS DECISION IF I WANT TO
CERTIFIED
COUNCIL REJECTED AGAIN — RIGHT TO APPEAL
IT IS BEST TO APPEAL TO A GROUP DIFFERENT FROM THE GROUP THAT FIRST DECIDED TO REJECT — SUCH AS A TRIBAL COURT.

2. How Is the Tribe Restricted?

The second line of the restatement tells what the law prohibits. The tribe "cannot take away . . . ." This phrase is also broadly defined.

Just as water in a stream slowly erodes its banks, so too can governments slowly erode a citizen's rights. U. S. courts have recognized the problem and prohibited governments from doing slowly what they cannot do all at once.

3. What Cannot Be Taken Away? (And from Whom?)

The ICRA says that tribes cannot take away or deny *any person's liberty or property*. "Liberty" and "property" mean a great deal more than freedom from jail and the right to own goods or land. As defined by the U. S. Supreme Court, liberty includes the right "to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home, and bring up children and generally to enjoy those privileges long recognized as essential. . . ."

Property includes the benefits governments give to individuals. Under a government's laws, a person is often entitled to some benefit if he meets certain qualifications. A person meeting the qualifications has a *property right* in the benefit. One of the most important property rights is membership. The tribal government cannot deny the right to membership without due process of the law. A person's liberty and property rights are fundamental.

4. What Must a Tribe Do before It Can Take Away a Person's Rights?

When the tribe believes that a person is not entitled to a fundamental right, it must provide fair procedures if it wants to deny a fundamental right. The procedures must be the same for similar cases. These procedures enable a person to know the government's intent and to respond.

5. Why Does the Tribe Establish the Procedures?

The people grant their government specific powers in the constitution. In the American system of government, the people restrict ways the government can exercise powers. The requirement that governments establish procedures to ensure fairness is an important restriction. The restriction is meant to *protect the individual* from abuses of the powers which the people grant to the government.

6. What Do the Procedures Accomplish?

The tribal procedures are meant to provide rules for fair government. When the government believes that an individual should not become a member, it can deny benefits. But the requirement of due process helps ensure that the government's power is exercised fairly. The procedures require that:

- The individual be told about what the government is about to do.
- The individual be given the right to a hearing so that he can present his side of the case.
- The individual be given the right to appeal.

In summary, the ICRA's due process provision may require tribes to establish and apply a framework of procedures which protects individuals from governmental actions. The procedures should provide methods of warning people of the tribe's intentions, give people the chance to be heard, and give a dissatisfied person a way to challenge the Tribal Council's decision.

. . . For Equal Protection

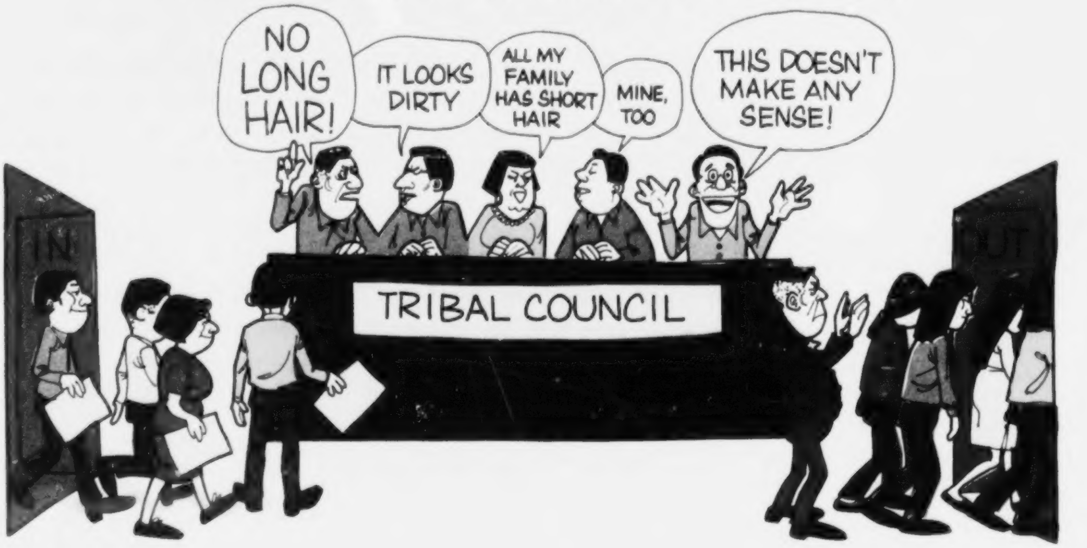
ICRA also provides that "No Indian tribe in exercising the powers of self-government shall . . . deny any person within its jurisdiction the *equal protection under its laws*" [25 USC 1302(8)]. This part of the law can be reworded in the following way:

- Indian tribes, acting as governments,
- cannot take away or deny
- any person's fundamental right
- to fairly written, fairly applied laws. (The equal protection requirement also applies to tribes that do not have *written* laws.)

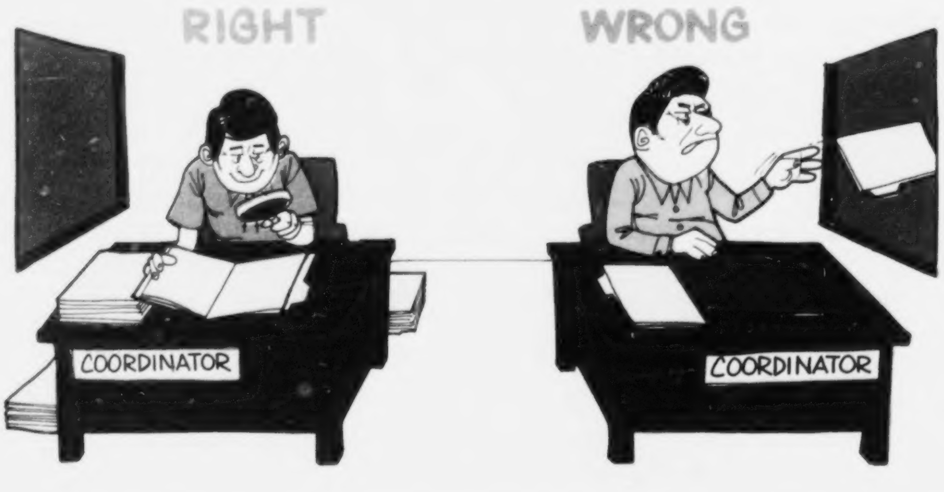
HOW TRIBES PROVIDE EQUAL PROTECTION

WHEN ESTABLISHING MEMBERSHIP REQUIREMENTS
THE TRIBAL COUNCIL SHOULD ASK...

IS IT FAIR AND REASONABLE TO...


NO LONG HAIR!
IT LOOKS DIRTY
ALL MY FAMILY HAS SHORT HAIR
MINE, TOO
THIS DOESN'T MAKE ANY SENSE!
IN
TRIBAL COUNCIL
OUT

WHEN APPLYING MEMBERSHIP REQUIREMENTS
ENROLLMENT PERSONNEL SHOULD TREAT EVERYONE
FAIRLY AND EQUALLY...


RIGHT
WRONG
COORDINATOR
COORDINATOR

Because the first three parts of the restatement are identical to the first three parts of the restatement of due process, only the last part is explained here. That clause raises two questions. They are answered below.

1. How Can a Tribal Council Be Certain Its Laws Are Fair?

The Tribal Council is responsible for the laws governing people on tribal lands. To avoid denying equal protection, it should consider each proposed ordinance in light of the consequences it will have for individuals. The tribe should not, either by enrollment procedures or constitutional amendments, take away a person's membership except in cases of fraud or dual enrollment.

The Tribal Council should ask itself whether the proposed ordinance is a reasonable way to achieve the Council's objectives. Although the tribe may be growing so large that it needs to restrict membership in some way, the Council should not unfairly or unreasonably restrict membership. It should not, for example, restrict membership to only the first-born child of members. An ordinance which did this would be effective, but not fair or reasonable.

The problem with an ordinance which treats some people unfairly is that often the groups treated differently are actually not very different. There is no apparent reason why the Council should classify first-born children differently from other children. When governments make laws that do classify similar kinds of people differently, the U. S. courts call some of these legislative acts a "suspect classification." They require the government to prove that the classification is fair. The courts also often require that the government prove that no other law will do what is needed.

To be sure that the tribe does not deny equal protection by treating similar people differently when it enacts enrollment laws, the drafter of the ordinance should consider what the difference really is between people to be accepted or rejected.

2. Even with a Fair Law, How Can the Tribe Be Sure that the Law Is Applied Fairly?

Chapter 9 discusses the enrollment system. One of the important uses of the system is to help ensure both due process and equal protection. The Tribal Council enacts ordinances and makes the final decisions concerning a person's eligibility.

The Enrollment Committee and its staff must follow the procedures outlined in the ordinance each time an application is received. The Committee and staff must be sure to:

- Follow the procedures for processing applications exactly. Do not hold back an application simply because it has little chance of acceptance.
- Give each applicant the same courteous and efficient service. Do not make the enrollment process a mass of red tape for some people and a breeze for others.
- Make recommendations for or against enrollment on the basis of legal membership criteria, not personal feelings. Do not recommend against enrollment because the applicant is unpopular.
- Apply the enrollment ordinance as it is written. Do not try to change the enrollment procedures or membership criteria without changing the ordinance.

In summary, the tribe, under the Council's leadership and example, must make and apply laws so as to treat each applicant fairly. The Council, Enrollment Committee, and staff must ensure that the enrollment ordinance is a reasonable way to achieve the goal of enrolling qualified members. Tribal organizations must be careful about which groups of people are singled out for different treatment. And the Council, Committee, and staff must consistently follow the tribal ordinance and enrollment procedures without regard to personal feelings about the applicants or the way the law "should" be.

Due Process and Equal Protection Checklist

The Tribal Council can be reasonably sure it is providing due process and equal protection in membership matters by asking questions about proposed actions. If the Council can answer "yes" to *every* question, it can be reasonably sure that few problems involving due process and equal protection will arise. A checklist of these questions is included below.

Providing Due Process and Equal Protection

The due process questions are easy to answer since due process deals with procedures. Equal protection questions often deal with difficult problems of social philosophy; answers to the questions often relate to one's own feelings. One Council member may answer "yes" to each question while another says "no." The Council must keep in mind, however, that its decisions must be fair and reasonable.

The checklist is as follows:

Due Process

Yes ____ No ____ 1. Does the enrollment ordinance provide for notice to the applicant at each stage of the enrollment process?

Yes ____ No ____ 2. Is the applicant given an opportunity to be heard before a final decision is made?

Yes ____ No ____ 3. Is every rejected applicant given at least one chance to appeal the Council's decision to another body?

Equal Protection

Yes ____ No ____ 1. Is the enrollment ordinance fair to every applicant?

Yes ____ No ____ 2. Are the requirements for membership reasonable means to achieve the goal of enrolling only qualified tribal members?

Yes ____ No ____ 3. Are the Council, Enrollment Committee, and staff applying membership requirements and enrollment procedures equally to every applicant?

Yes ____ No ____ 4. Do the membership requirements and the enrollment procedures treat similar kinds of people in the same way?

If the Council, Committee, and staff can answer "yes" to each question, the ICRA's demands are met.

Conclusion

Native Americans have long had self-government. Tribal governments are products of a people working together to preserve a unique way of life and to protect individual dignity. The governments created by native Americans have long recognized the need for justice and fairness in building a strong people and in deserving the respect of other governments. The ICRA is not a foreign idea to tribal governments, imposed by the U. S. Government as a punishment.

The ICRA represents universal ideas of fairness and justice. Every government in the United States is required to follow rules of fair treatment similar to the rules in the ICRA. This is because the people who created the different governments knew that men may be swayed by personal desires to treat other people unfairly.

As tribes assume more power over members' lives, more protection from human weakness is necessary. Many tribes provide this protection in their own constitutions. Congress, in the ICRA, may have wanted to ensure that tribal governments would respect the fundamental rights of individuals under their jurisdiction.

The tribe may have to provide due process and equal protection because the ICRA requires it. But much more importantly, the tribe should provide due process and equal protection because these rights are basic to good government.

CHAPTER 5

The Enrollment Ordinance

This chapter discusses several kinds of written law which many tribes use to govern. Although constitutional law is not the basis of all tribal governments, it is defined first to show how it differs from other kinds of tribal law. Ordinances and resolutions are the tools most tribal governments use to govern. These kinds of law are defined in terms of their functions in enrollment. The chapter does not address only tribes with constitutions. The discussion of ordinances and resolutions may apply to any kind of tribal government.

Constitutional Law

On all levels of government, the basic law which establishes the form of government, grants powers to the leaders, and limits these powers is called the constitution. A government's constitution is the blueprint for governmental organization, structure, and operation. It establishes, shapes, and controls government. Constitutional law is the supreme law, the law with authority over all other kinds of law.

For example, the tribal constitution may give the Tribal Council power to enact an ordinance governing adoption of members. The constitution may also limit adoption to persons of at least 1/4 Indian blood. The Tribal Council, therefore, cannot enact an adoption ordinance to change that restriction. The constitution can only be changed by an amendment. All the tribal members, not just the Tribal Council, voted for the constitution. Only the tribal members can change it.

Ordinance

Functions of an Ordinance

The people grant the power to govern to the Tribal Council through the constitution. To exercise this power, the Council passes ordinances to meet the tribe's needs. An ordinance can be used to:

- make new law;
- add to existing law; and
- change or repeal existing law.

An ordinance sets up rules, regulations, and procedures for meeting a particular need stated or implied in the constitution. For example, an enrollment ordinance sets up procedures for enrolling members according to the membership requirements stated in the tribal constitution.

An ordinance also serves to define terms used in the constitution that are confusing. For example, the tribe may interpret a residency requirement very broadly so that persons do not have to actually live on the reservation to meet the requirement. To make this clear, residency should be defined this way in the enrollment ordinance. The definition ensures that the residency requirement is always understood and applied the same way to all applicants.

The ordinance assigns responsibility, authority, and routes of communication among groups working in the government. For example, an enrollment ordinance may establish an Enrollment Committee of a specific size, define its duties and powers, and describe how the Committee relates to the Council. (See Chapter 9 for a discussion of an enrollment system.)

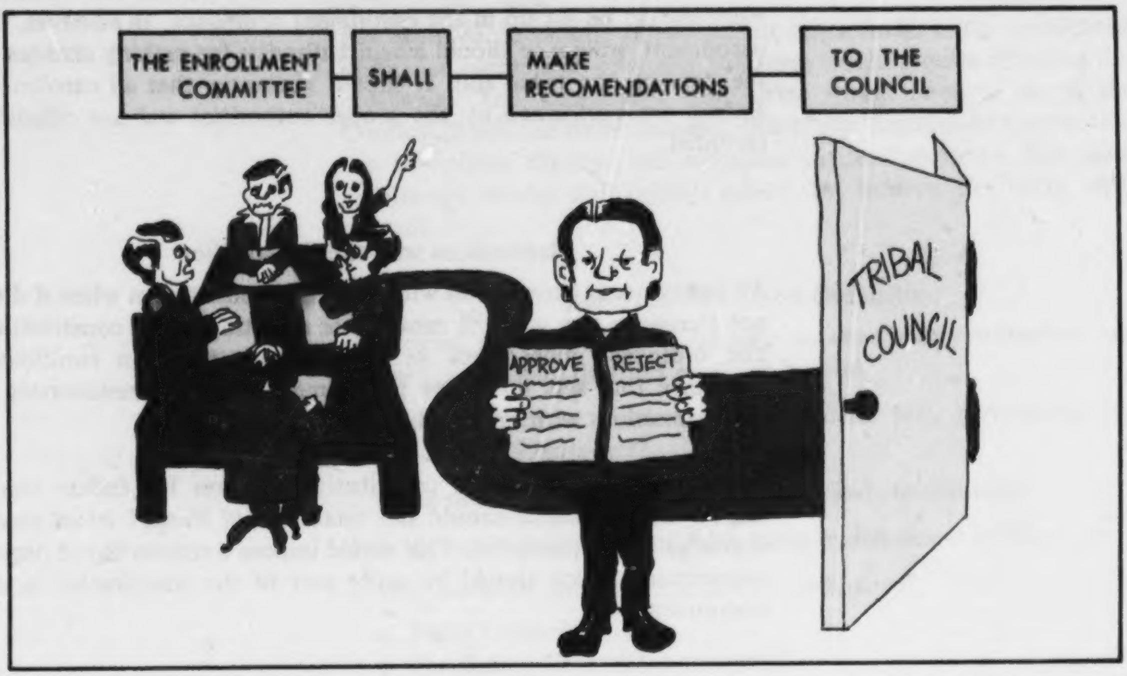
Structure of the Ordinance

All ordinances should have a similar structure. The following list includes its basic provisions:

- Title
- Enacting clause
- Purpose
- Effective date
- Definitions
- Technical provisions

The Enrollment Ordinance

The overall structure of an ordinance can be simply stated: *People* are *ordered* or *allowed* to *do something* in a *certain way.* The following illustration pictures this structure in terms of an enrollment ordinance.


THE ENROLLMENT COMMITTEE
SHALL
MAKE RECOMENDATIONS
TO THE COUNCIL
APPROVE
REJECT
TRIBAL COUNCIL

A Good Ordinance Is . . .

Comprehensive

An ordinance is comprehensive when it establishes all the procedures and regulations necessary to meet a tribal need and defines all confusing terms.

In addition, an ordinance may contain substantive law that establishes policy and defines specific rights. A criminal ordinance is an example of an ordinance containing substantive law.

The constitution, however, usually contains the substantive law on membership. It states the exact requirements for membership. The enrollment ordinance then regulates how the constitutional requirements are enforced. It meets the tribal need of making membership decisions based on the constitution. A good enrollment ordinance is comprehensive because it covers all kinds of enrollment situations, not just the routine ones.

For example, the procedures and grounds for adoption and disenrollment should be set up in the enrollment ordinance. In addition, the enrollment ordinance should assign authority for making changes in the data on the tribal roll. It should guarantee that all enrollment actions are performed by the proper authorities and are officially recorded.

Harmonious with the Constitution

An ordinance is harmonious with the tribal constitution when it does not change in any way the meaning or intention of the constitution. The ordinance must agree with the constitution. An enrollment ordinance that sets up a new requirement for tribal membership is not harmonious with the tribal constitution.

For example, if the tribal constitution requires 1/4 Indian blood degree, the ordinance should not establish 1/4 *Matuck tribal* blood degree as the requirement. This would impose a stricter blood degree requirement which should be made part of the constitution in an amendment.

Procedural

To write a good ordinance the Tribal Council should consider the differences between constitutional amendments and ordinances. The ordinance establishes procedures and regulates how things are done. Amendments to the constitution add to or change the meaning of the tribe's fundamental law. The whole tribe, not just the Council, has the right to vote on amendments.

For example, changes in the meaning of membership requirements should be made permanent through a constitutional amendment. The enrollment ordinance, however, establishes *the way* to *apply* membership requirements. If the procedures do not work well, the Council can repeal or amend the ordinance without difficulty.

The Enrollment Ordinance

Uncluttered with Detail

The Council should also consider how much detail to include in the ordinance. If too much detail is included, even minor changes will require official Council action.

For example, to include all enrollment office forms in the enrollment ordinance means that changing the form would require changing the ordinance. The Enrollment Committee would have to go to the Council to get the form changed. But if the Enrollment Committee has the power through the ordinance to develop forms that meet enrollment needs, the Tribal Council has built-in flexibility with control.

Checklist for a Good Ordinance

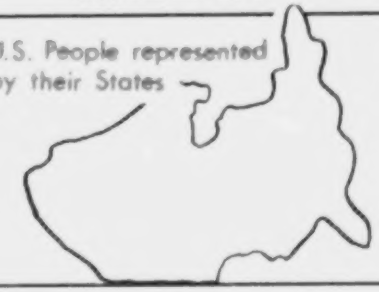
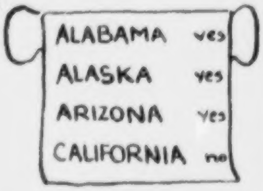
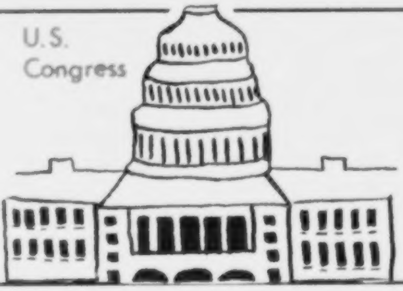
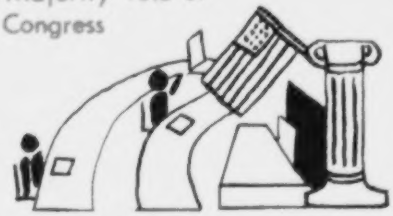
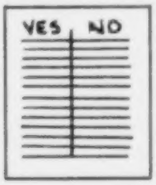
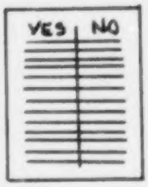
In writing an ordinance, specifically an enrollment ordinance, the Tribal Council may find this checklist helpful.

1. Is the ordinance consistent with Federal law, particularly the Indian Civil Rights Act?
2. Is the ordinance harmonious with the tribal constitution?
3. Is the ordinance consistent with tribal tradition and culture?
4. Who has what obligations under the ordinance?
   a. Tribal Council?
   b. Enrollment Committee and staff?
   c. Applicant?
   d. Tribal court?
   e. U. S. Government?
5. Does the ordinance say exactly what it means?
6. Are all terms clearly defined?

Resolution

Resolutions are official Council acts that represent the Council's decision to do something. For example, once an adoption ordinance is enacted, the Council actually adopts a person by passing a resolution stating that the Council voted to adopt the person on a specific date. Resolutions serve an important purpose in enrollment. An enrollment action becomes effective when the Council passes a resolution on it. The resolution is an official record of a membership decision and should be kept in the enrollment files.

HIERARCHY OF UNITED STATES AND TRIBAL LAWS

LAW	MADE BY	CAN BE CHANGED BY
U.S. Constitution	U.S. People represented by their States 	3/4 vote of all States  ALABAMA yes ALASKA yes ARIZONA yes CALIFORNIA no
U.S. Statutes	U.S. Congress 	Majority vote of Congress 
Tribal Constitution	Tribal Members	Amendment with vote of the tribal members
Tribal Ordinance	Tribal Council	Vote of Council 
Tribal Resolution	Tribal Council	Vote of Council 

Hierarchy of Laws

Within a constitutional tribal government, the constitution is the law of highest authority. Therefore, constitutional amendment can change both ordinances and resolutions. An ordinance represents a higher authority than a resolution. The only law an ordinance can change is another ordinance or a resolution.

The U. S. Constitution is the law of highest authority in the United States. Today, even treaties cannot conflict with the U. S. Constitution. It is supreme over Federal laws, state constitutions and laws, and tribal constitutions and ordinances. Federal laws are similar to tribal ordinances. Federal laws implement the U.S. Constitution and are also limited by it. Similarly, tribal ordinances implement the tribal constitution and are limited by it. The hierarchy of Federal and tribal law is pictured on page 42.

Changing Membership Requirements

When a tribe decides that it would like to change a certain membership requirement or establish a new one, the first question to ask is *what sort of law established the provision that is no longer desired.*

If the provision that is to be changed is in the tribal constitution, the constitution must be amended. An amendment that changes membership requirements will also, automatically, abolish all old ordinances or resolutions that directly conflict with the new provision.

If the requirement that is no longer desired is found in an ordinance, the tribal governing body should pass another ordinance that changes the old one. If tribal members passed the ordinance by referendum, they should hold another referendum to pass a new ordinance. Ordinances can change only other ordinances, or resolutions. They can add specifics to constitutional law, but they cannot conflict with it or change its meaning.

If the membership requirement that is no longer desired is contained in a resolution, it can be changed by passing an ordinance or another resolution. Resolutions can only change other resolutions.

Here are five fundamental rules which cannot be broken when passing a new enrollment requirement:

1. *The new law that is passed cannot conflict with a higher law that already exists.* An ordinance should not change in any way the meaning or intention of the constitution. If the tribal constitution requires ¼ Indian blood degree, an ordinance should not establish ¼ *tribal* blood degree as the new requirement. This would impose a stricter blood degree requirement which should be made part of the constitution in an amendment.

2. *The new law must be voted on by the same body of people who passed the old law.* If all tribal members established the old requirement, they must vote on whether it should be changed. If the Tribal Council established the old requirement, the Council must vote on whether it should be changed.

3. *New laws that restrict membership cannot be applied retroactively.* This means that the law must provide for the continued enrollment of people who were members before the law was passed, even if they do not meet the new, stricter requirement. If the new law is *less* strict than the old one, however, people who were refused membership under the old law may now be eligible.

4. *The law must be approved by the Secretary of the Interior if the constitution so provides.* All constitutional amendments must be approved by the Secretary, because the Secretary approved the original constitution. If the constitution provides for his approval of ordinances, the new enrollment ordinance should be sent to him. If the constitution provides for Secretarial approval of individual membership decisions, all enrollment resolutions should be approved. The Secretary usually delegates his approval authority to the Bureau of Indian Affairs officials to handle enrollment approvals.

It is quite unusual for an ordinance to be vetoed by the Secretary. When an ordinance is disapproved, however, these are the most common reasons:

- The ordinance violates Federal law
- The ordinance violates the tribal constitution
- The ordinance is unjust to a minority group in the tribe.

All tribes should be wary of these pitfalls when writing an ordinance. The tribe should not hesitate to consult with the tribal attorney, the technical advisors of the Bureau, or the legal experts of the Department of the Interior when there is any doubt about the legality of an ordinance.

5. *The key terms used in the new law should be defined carefully.* A tribe that is amending its constitution may want to define the terms of the new amendment in an ordinance, rather than in the amendment itself. The following chapter discusses legal language and interpretation in detail.

Amendment Versus Ordinance

Tribes will need to consider, in certain situations, whether a constitutional amendment or an ordinance is more appropriate. Tribes will probably wish to use an *amendment* when . . .

- The tribe has a constitution that does not contain a membership provision. Establishing membership requirements in the constitution gives them more force and permanence than an ordinance will have.

- The tribe wishes to change the meaning of the membership requirements in the constitution.

- So many membership problems and questions have been raised since the constitution's membership requirement was established that individual ordinances cannot resolve all the issues.

- The constitution requires members to be of Indian blood, or tribal blood, without specifying the *degree* of blood. If the tribe decides to establish a minimum blood degree requirement, a constitutional amendment should be used.

- The constitution cites a base roll of members that does not exist, and no similar document can be used to construct a base roll that is like the one which the constitution cites. The problem of a nonexistent base roll will be examined in Chapter 8.

Tribes with constitutions will probably wish to pass an *ordinance* when . . .

- The desired change is a matter of procedure. The enrollment ordinance basically establishes *the way* to *apply* the constitution's membership requirements. If the procedures do not work well or enrollment needs change, the tribal governing body can repeal or amend the ordinance without difficulty.
- A key term in the constitution's membership requirement needs to be clarified.
- The tribe wishes to establish deadlines and procedures for updating its membership roll or using the membership roll for payment purposes.

Conclusion

The reason for enacting an enrollment ordinance is to provide the procedures for making membership decisions based on the tribal membership requirements stated in the constitution. The Council can establish an effective enrollment system through the enrollment ordinance. The Council can ensure that due process and equal protection are provided to applicants by including notice, hearings, and appeals provisions in the ordinance. A well-written, comprehensive ordinance enables the tribal government to function smoothly and efficiently.

Making membership decisions without an ordinance is like playing basketball without lines on the court, rules, a referee, and a timer.

CHAPTER 6

Interpreting Law

This chapter describes how laws are interpreted. It explains two fundamental ways of reading law: one is liberal; the other is strict. Liberal means interpreting the law according to its purpose. Strict means interpreting the law according to the plain meaning of the words. The chapter also lists some common, specific rules to help interpret law and some guidelines for writing law. Writers of law should keep in mind the various ways a law can be interpreted as they draft laws.

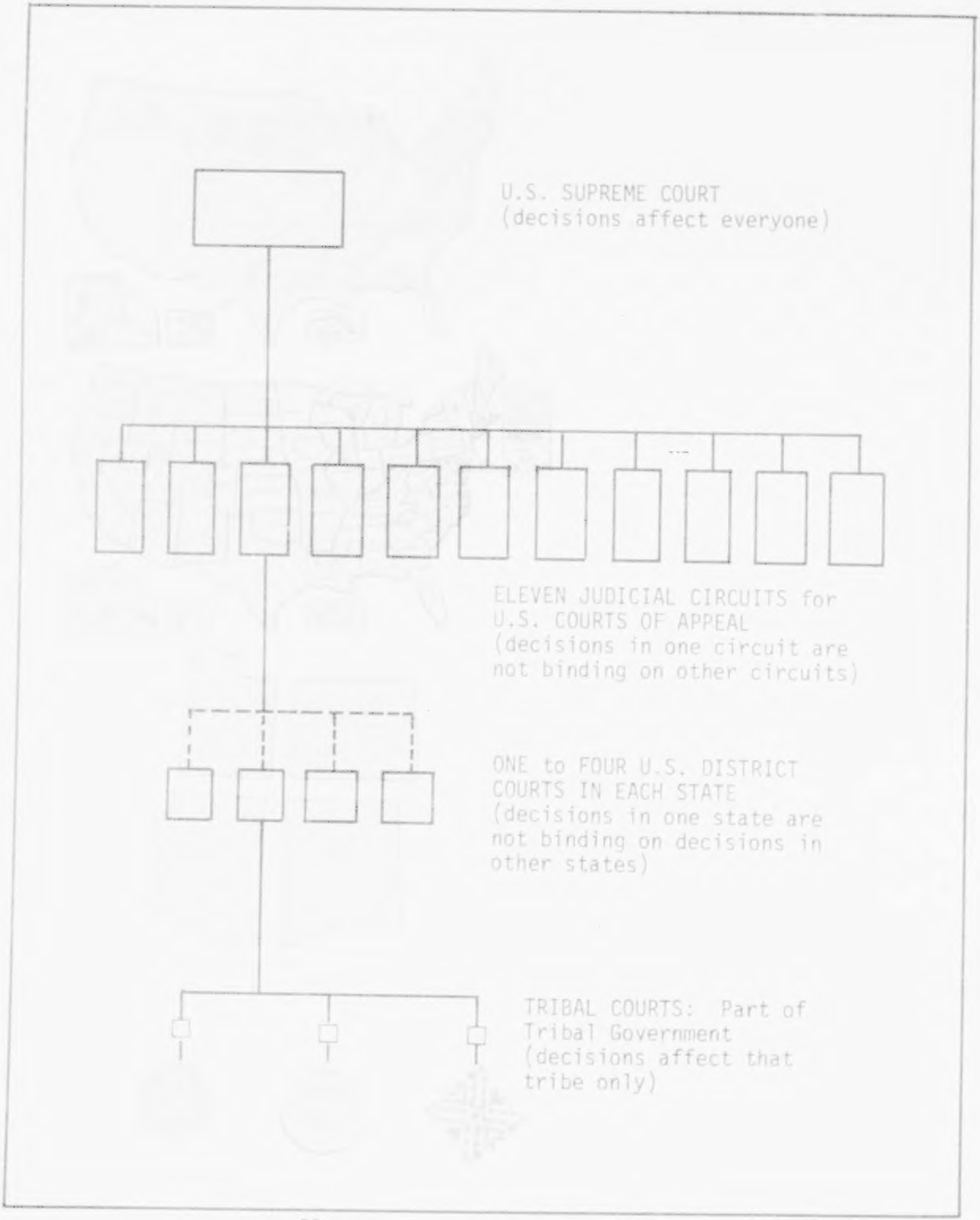
Interpretation Defined

To interpret a law is to explain what it means. Judges are not the only persons who interpret laws. Every time a person reads a law and tries to understand its meaning, that person engages in "statutory construction." When an enrollment committee member reads the membership provision of the tribal constitution and tries to decide how it applies to the applications pending before the committee, he is construing or interpreting law.

The part of government most involved with statutory construction (understanding the meaning of laws) is the judiciary or courts. The courts' interpretation of law is normally binding on the other branches of government. Chief Justice Marshall of the U. S. Supreme Court said that it is the job of the courts to say what the law means. The other parts of a government make and enforce laws, but the courts must say when the law is being obeyed or disobeyed.

Courts make decisions about the meaning of a law by looking at what other courts have decided in similar cases. Once a court decides that the law should be applied in a particular way or that the law should be interpreted in a certain way, then the court will normally continue to interpret the law the same way in future cases. This is called "following precedent."

IMPACT OF COURT DECISIONS



U.S. SUPREME COURT
(decisions affect everyone)

ELEVEN JUDICIAL CIRCUITS for
U.S. COURTS OF APPEAL
(decisions in one circuit are
not binding on other circuits)

ONE to FOUR U.S. DISTRICT
COURTS IN EACH STATE
(decisions in one state are
not binding on decisions in
other states)

TRIBAL COURTS: Part of
Tribal Government
(decisions affect that
tribe only)

Over many years of interpreting laws, the courts have developed rules to help understand or construe the statutes, ordinances, and even constitutions with which they must deal.

These rules are important to persons working on enrollment because an applicant who is refused may appeal within the tribe (or outside the tribe when the tribe's constitution so provides or when a trust asset payment is being made). When an applicant appeals a decision, the court must construe the ordinance and constitution of the tribe, the Indian Civil Rights Act, and perhaps even the U.S. Constitution to decide whether the rejection is legal. Therefore, when the Tribal Council writes an ordinance, it should use these rules to decide how courts will interpret the ordinance. Enrollment Committee members can use the rules to decide what the Council means to say in an ordinance or what requirements the tribal constitution or Federal statutes place on the enrollment process.

Remember that there are limits to interpreting law: the limits of the words themselves; the limits of the lawmakers' intentions; and the limits of the art of interpreting law. *Know when to consult legal experts at the Bureau of Indian Affairs or the tribal attorney.* And know when to return to the lawmakers to ask them to clarify the meaning of a law by passing a new law.

Interpreting Law According to Legislative Intent

Legislative intent means *why the law was passed* – what it is supposed to accomplish. The first rule of interpreting any law is that the law should be understood in light of what the legislative body intended it to do.

A legislative history is a written record of what was said and written about a bill before it was passed and became law. Word-for-word minutes of Council and Committee meetings are legislative histories that reveal what the lawmakers had in mind when they made a law. Legislative history is therefore essential in discovering the legislative intent of a law. Minutes of meetings which summarize what was said or what happened are not useful for this purpose. Such minutes represent one listener's point of view. A legislative history must contain every word that was said.

There are two ways to figure out what the lawmakers intended the law to mean. The first way is to ask "what is the purpose of this law?" and the second way is to ask "what is the plain meaning of this law?"

1. What Is the Purpose of This Law?

Often a person can know what the lawmakers wanted the law to mean without having to interpret the law itself. The enrollment staff often participates in drafting and preparing the enrollment ordinance. They understand the purpose the Tribal Council had in mind when it passed the ordinance. Often Federal agencies and courts interpret laws the same way. The agency or court will look at what the Congress intended to do and read the law in a way that accomplishes congressional intentions, even if the words could be interpreted other ways.

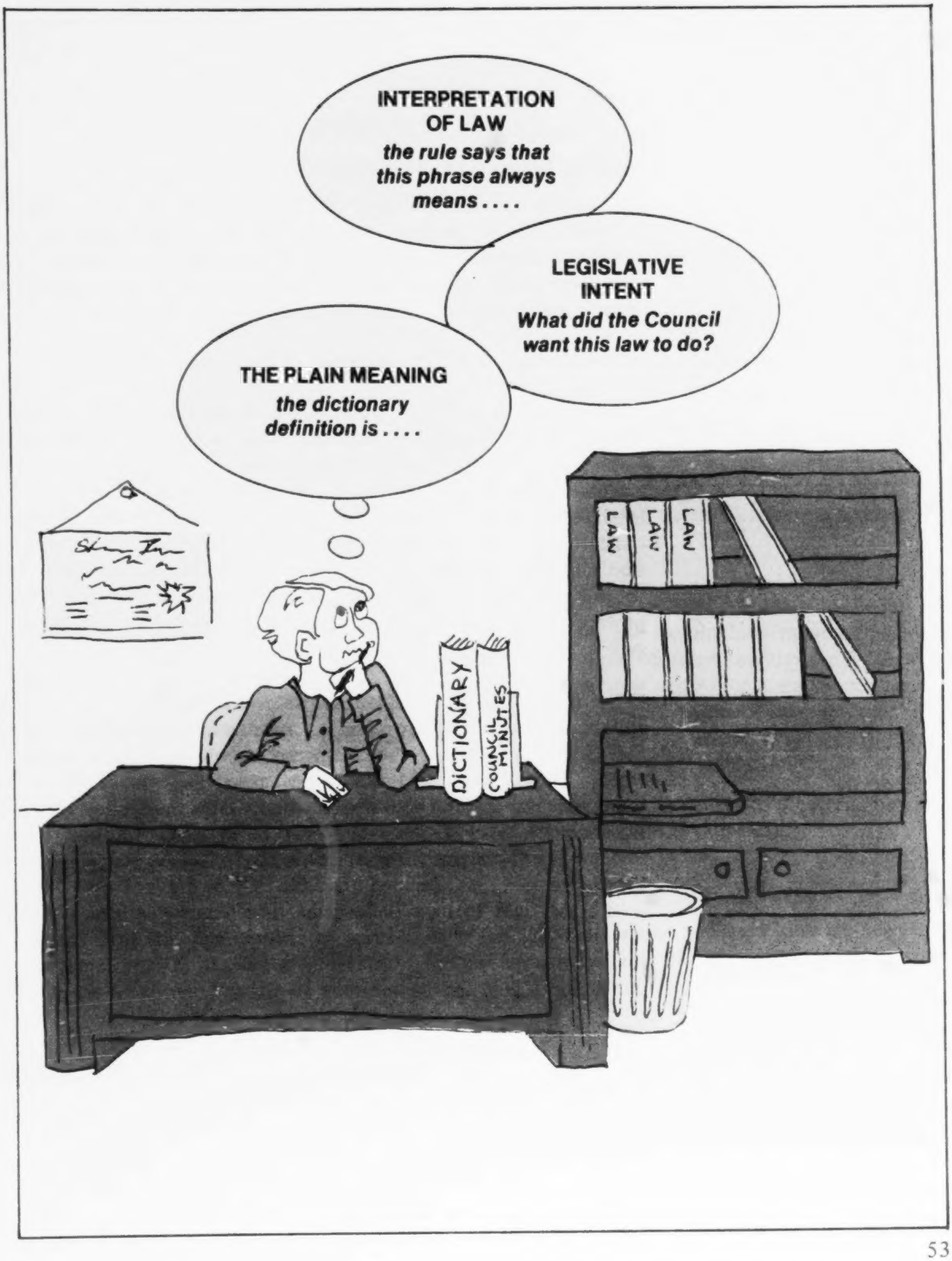
Remember: interpret only from official written records of Council or Enrollment Committee meetings and cite the exact source.

For example, do not say: "I know the Council meant 'children' to include adopted children because I heard Councilman X tell Councilman Y that was what they wanted."

2. What Is the Plain Meaning of This Law?

A person reading a law could also say, "If the lawmaker had wanted to make this law to do something other than what it appears to say, he would have written a different law. Therefore, I am going to interpret the law only by the words on the page. What I think the lawmakers' *purpose* was makes no difference." This approach to interpreting the lawmakers' purpose is to look only at the "plain meaning" of the words on the page and not to look at what the lawmakers said they wanted to do. Therefore, if the lawmakers make a mistake in writing the law, the mistake is still the law. If understood according to the law's plain meaning, the law must be obeyed. The courts, however, will correct obvious mistakes in language which lead to absurd results.

THE ART OF INTERPRETING LAW


INTERPRETATION OF LAW
the rule says that this phrase always means . . . .
LEGISLATIVE INTENT
What did the Council want this law to do?
THE PLAIN MEANING
the dictionary definition is . . . .
LAW
LAW
LAW
DICTIONARY
COUNCIL MINUTES

Conflict Between the Two Ways of Interpreting Law

It would be nice if the meanings that result from reading the law according to its purpose and according to its plain meaning were always the same. But they are not. An example of the conflict that can come from reading a law two ways and finding two different meanings is the interpretation of the Indian Civil Rights Act.

When the ICRA was first passed, some courts said that even though the words of the ICRA are like the words in the U.S. Constitution, Congress intended to respect the tribes' right to maintain their cultural and racial uniqueness. Therefore, these courts did not interpret the ICRA due process and equal protection provisions the same way as they interpret the same provisions in the U.S. Constitution's 14th Amendment. (Over a century, Federal courts have come to interpret this Amendment's words, "due process" and "equal protection," as including a wide variety of very specific provisions – such as trial by a jury of one's "peers.")

Other courts said that if Congress intended the ICRA due process and equal protection provision to mean something different from the U.S. Constitution, then Congress would have used different words. These courts said that tribes must obey the ICRA in the same way the Federal Government and States must obey the 14th Amendment. This disagreement was never really resolved in the Federal court system. Instead, in the *Martinez* case (see Chapter 3) the Supreme Court decided that the ICRA did not give Federal courts the right to hear these cases. The Court said that Congress intended the tribes themselves to enforce and interpret the ICRA (except in special cases involving people in jail). Chapter 3 explores the ICRA and its meaning to tribal government more fully.

General Rules for Interpreting and Writing Law

Regardless of which approach, liberal or strict, is used to interpret law, there are certain rules courts follow to decide what a law means. The rules listed below are generally followed in interpreting law. Those who draft laws should also find these rules useful. It is wise to know what assumptions courts make when they read law, so that the assumptions can be considered when writing law.

Interpreting Law

Use these rules with extreme caution. Remember, interpretation problems call for legal experts.

The following assumptions can be made about laws:

1. Words in a law must be defined in the context of a whole law. For example, when the word "judge" is used in an ordinance dealing with tribal courts, the word probably means *Tribal Judge.*

2. When things are listed in a law as examples, only things like the examples are included in the scope of the law. For example, if a law required all livestock including horses and cattle to be vaccinated, it would intend that goats also be vaccinated. It would probably not include pet dogs.

3. When there is more than one law on a subject, each law is intended to be effective and the various laws must all be read together. For example, if an old adoption ordinance requires 1/4 Indian blood degree, and a new ordinance requires residency, then both 1/4 Indian blood and residency are required for adoption.

4. Words and phrases are interpreted according to the ordinary rules of grammar. (See the technical rules in number 5.)

5. Some technical rules for interpreting and writing law:
   a. The singular includes the plural, and the plural includes the singular. For example, "he" means "they" and "they" means "he."

   b. Words of one gender (sex) include the other genders. ("He" includes females.)

   c. Words in the present tense include the future. For example, "the Enrollment Committee recommends" means that the Committee recommends now and in the future.

   d. The word "week" means 7 consecutive days.

   e. In figuring a period of days, the first day is excluded and the last day is included.

   f. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

   g. If a number of months is to be figured by counting the months from a particular day, the period ends on the same numerical day in the final month as the day of the month from which the figuring began, unless there are not that many days in the final month, in which case the period ends on the last day of that month.

   h. A quorum of a public body is a majority (more than half) of the number of members that the law establishes for that body. For example, if the Tribal Council has 12 members and 6 are present, this is not a quorum. Seven members would be a quorum. This holds true unless the law states differently.

   i. When a law that repealed another law is itself repealed, this does not revive the law originally repealed.

6. Technical and legal words are interpreted with the technical, legal, or special meaning appropriate to the context of the law. For example, everyone in enrollment knows that the base roll cited in the constitution does not include as members those people with "NE" (not enrolled) before their names.

7. How a law is interpreted at the time it is passed is a meaningful guide to interpreting the law later on. For example, the minutes of the Council meeting in which the meaning of a law was discussed are a good guide to interpreting the law.

8. The way other courts interpret similar laws is a good guide to interpreting the law.

9. When to interpret laws "liberally" or "strictly":

   a. Laws which punish or tax are interpreted *strictly*, according to the plain meaning of the words.

b. Other laws are interpreted *liberally*, according to the purpose of the law, to achieve the purpose of the law.

10. When a court of last resort (no more appeals possible) interprets the language of a law, lawmakers that pass later acts with the same language intend that language to mean the same thing.

11. When a law is passed on subjects similar to those of old laws, the new law is intended to change the old law. For example, an old adoption ordinance requires 1/4 Indian blood. A new adoption ordinance requires 1/2 Indian blood. The new law changes the old law because it is on the same subject.

12. Repeal of a law cannot be assumed just because a new law is passed. For example, an old adoption ordinance requires the Tribal Chairperson to approve adoptions. A new adoption ordinance requires the Tribal Council to approve adoptions. From these facts alone, it cannot be assumed that the Tribal Chairperson should no longer approve adoptions. The new ordinance should have a repealer (a clause repealing the old ordinance) if *only* the Council is intended to approve adoptions.

13. Lawmakers favor the public interest over the private interest.

14. Lawmakers intend the entire law to be effective. No one part of a law is less important than another.

15. Lawmakers do not intend the law to have a result that is absurd, impossible, or unreasonable.

16. Lawmakers do not intend the law to be unconstitutional.

Good ordinance writing requires that the writer understand that the definitions in a law *are law.* An ordinance writer should avoid writing any rules in the definition section of an ordinance. The rules listed below apply to writing or interpreting ordinances.

1. Do not write rules in the definition.
2. Define precisely. Use "includes" or "including" as little as possible.
3. Use natural meanings where possible. Use your dictionary.
4. Stay within the definition when using the defined word in the ordinance.
5. Do not define too many words. Define only key words.

Words to Use with Caution

An ordinance writer must be careful in using certain words. A list of these words is provided to guide their use. When in doubt, check a dictionary.

SHALL – In legal language, *shall* is an order. Only use *shall* when the law is a command. For example, "applicants shall submit applications."

MAY – The word *may* allows choice or discretion. This word should be used when the lawmakers want to reserve the decision-making to themselves or someone else.

WILL – The word *will* is not used in legal language because it can be read as an order and also allows decision-making power to be left open. Legal language avoids using terms that are ambiguous. For example, if a law said, "The School Board will build a school," the School Board could say: "We *will* build the school – but later, not now."

AND/OR – An ordinance should not use the words *and/or. And* means both. *Or* means either one. If the Council means either one or both, the ordinance writers should say so. If the lawmakers are aware of how this can be interpreted, and have good reason to use it, it is acceptable.

JARGON – Ordinance writers should not use technical or slang words, if possible. Every profession makes up words to describe persons, places, or things, but these words can confuse people who are not in the professions. The ordinance writer could say, "Any perpetrator, having maimed the corpus of any cop, shall be incarcerated in the locus of his domicile." This sentence would be better written this way: "Any person who harms a policeman shall be jailed in the vicinity of his hometown."

CHILD – Does the writer mean natural child or does the writer include adopted children? Be specific.

RESIDENCE – Does the writer mean at the place where someone lives all the time or does property ownership also suggest residency? Be specific.

DESCENDANT – Does the writer realize that a descendant of a member may skip generations? For example, children of members means children of parents, whereas descendants of members can mean great-great-grandchildren.

The following words raise questions for all tribes to consider:

MEMBER – Is a person a tribal member even if he is not officially enrolled in the tribe?

INDIAN – Is a person an Indian if he is a member of a terminated Indian tribe (a tribe that is not recognized by the Federal Government)?

APPEAL – Does an appeal mean that a case is completely re-decided or does it mean that a case decision is reviewed to determine whether it was fairly made?

Conclusion

Interpreting and writing law require:

- Reference books plus the skill and desire to use them:

  A dictionary;

  An English grammar book (a junior or senior high school or college grammar book serves this purpose); and

  A handbook on writing and interpreting law (e.g., Jack Davies, *Legislative Law and*

Process in a Nutshell, West Publishing Co., St. Paul, Minnesota, 1975).

- Thinking and discussing the purpose of a law before writing.
- Care with each word, sentence, and paragraph to ensure that it is precise.
- Knowing the limitations of people without legal training.
- Assistance from legal professionals to determine if the law says what the tribe means.

CHAPTER 7

Three Types of Tribal Members

For a long time, Indian tribes have required people who want to become members of the tribe to meet certain qualifications. The requirements generally *include* people who are alike because they share history, homeland, language, Indian and/or tribal blood, and customs – and *exclude* people who are different from tribal members in these ways. If tribes had not applied membership requirements over the years, the unique character of each tribe and the tribal life style might have disappeared.

Today, in many tribes the right to tribal membership is determined by written tribal law. There are several kinds of requirements for membership stated in tribal constitutions. They serve the same purpose that qualifications have always served: to preserve a community of people who share common things. Because the qualifications are law, however, they are stronger than ever before. Those who make membership decisions are bound by tribal law to apply the requirements as they are written.

There are only three basic types or classes of members based on these written requirements:

1. Base enrollees
2. Automatic eligibles
3. Adoptees

This chapter discusses the kinds of requirements that appear in tribal constitutions and shows how to identify the three types of tribal members.

Base Enrollees - 1

Tribal constitutions usually cite a list of people who are recognized as the basic membership of the tribe in Section 1.a under Membership. Those listed on this document are called "base enrollees." The base roll may be a census of all persons living on a reservation in a specific year. It may be a list of people who received payments or had an allotment of land in a specific year. Except for the people on these lists who have an "NE" (not enrolled) by their names, these people are the basic members of the tribe.

In some cases, people who should be on these rolls have been omitted. For example, some persons may not have been present when the census was taken. That is why some constitutions specify a period during which errors may be corrected. After the period ends, the tribe cannot add or remove names from the base roll without Secretarial approval.

Most tribal constitutions identify the base enrollees by naming a list of people in the first statement about membership. Often, the constitution does not require that base enrollees meet any other conditions for membership. For example, a tribal constitution might say: "All persons whose names appear on the census roll of the Matuck reservation as of January 1, 1935, shall be members of the Matuck Tribe." If the base enrollees have to meet a blood degree requirement, the constitution might say: "All persons *of Matuck Indian blood* whose names appear on the census roll of the Matuck reservation as of January 1, 1935, shall be members of the Matuck Tribe."

Base enrollees are central in making membership decisions. If a person is not descended from someone on the base roll or born to a member, he or she can obtain tribal membership only through adoption.

The tribe can take membership away from someone on the base roll only, for example, if the constitution prohibits dual enrollment (being a member of two tribes at once). In this case, the tribe can require the person to relinquish membership in one of the two tribes. If the person refuses, then the tribe may have grounds to disenroll the person.

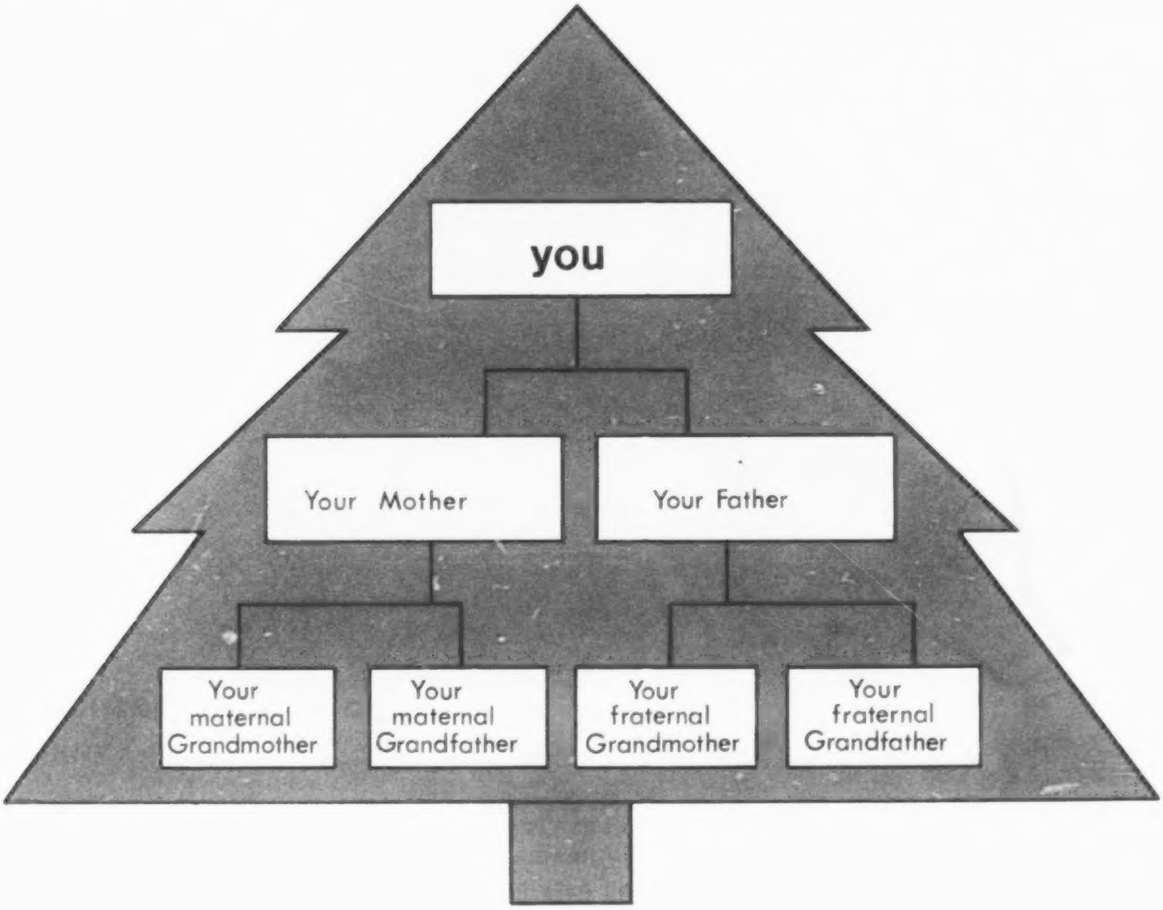
COURTESY OF BUREAU OF INDIAN AFFAIRS

Automatic Eligibles - 2

Membership requirements relating to automatic eligibles are based on birth: where you were born, who your parents are, and how much Indian blood you have because of them. (The term "Indian blood," when used in a tribal constitution, means the blood of various Indian tribes combined.) Therefore, this right to tribal membership is a right people are born with. The tribe cannot legally deny membership to anyone who can prove that he or she was born with the right and meets the conditions as they are stated in the tribal constitution, usually in Section 1.b under Membership.

"Automatic eligibility" depends on a relationship to base enrollees. Therefore, ancestry and blood degree are central in "automatic eligibility."

Family Tree


you
Your Mother
Your Father
Your maternal Grandmother
Your maternal Grandfather
Your fraternal Grandmother
Your fraternal Grandfather

Ancestry

Ancestry refers to descent through parental lines.

YOU ——→ YOUR PARENTS ——→ YOUR PARENTS' PARENTS

The relationship is often shown as a "family tree."

Three Types of Tribal Members

Ancestry is a fundamental condition for membership. It also accounts for Indian blood degree, another fundamental condition. In enrollment, ancestry refers to lineal, not collateral, descendants.

- *Lineal descendants* are children of parents who are children of parents, and so on back to an original set of parents (as shown on the family tree).
- *Collateral descendants* are relatives of, but not directly descended from, each other – aunts, uncles, nieces, nephews, sisters, brothers, cousins.

The conditions for membership that concern ancestry require that a person:

- Trace lineal descendancy (as shown on the family tree) from someone on the base roll;
- Be born to a tribal member; and
- Possess a specific degree of Indian or tribal blood.

Indian Blood Degree

There are two kinds of blood degree requirements placed on "automatic eligibility" in tribal constitutions:

A member must have Indian blood

or

A member must have Indian blood of a specific tribe.

Figuring Indian Blood Degree

Figuring out the degree of Indian or tribal blood can be very difficult. It often requires detective work to find the most accurate records of Indian blood degree. The task begins with obtaining the information needed to fill out a family tree. The rule is that a child has the Indian or tribal blood degree of both parents added together and divided by two. Adding and dividing fractions can become very complex. The blood degree chart on the next page will make the task easier and ensure accuracy.

For example, a constitution may require that a child have 1/2 Indian blood and be born to a member. If the father is a member and 4/4 Indian and the mother 1/4 Indian, then the child is 5/8 Indian. Therefore, the child meets the Indian blood degree requirement.

When a constitution specifies tribal blood degree, figuring out a child's blood degree can be even more difficult. For example, the Matuck tribal constitution may require 1/2 Matuck Indian blood. If the father is 4/4 Matuck and the mother is 1/2 Salinowah and 1/2 Kalish, the child is 1/2 Matuck. None of the mother's Indian blood can be used to determine eligibility because she has no *Matuck* blood. The child has the father's Matuck blood (4/4) divided by two, which is 1/2. According to the Matuck constitution, the child is thus eligible for membership.

The blood degree chart is included in Appendix E for ease of reference.

Changing and Applying the Membership Requirement

There is a current trend for tribes to want to specify *tribal* blood degree in enrolling members. If their constitutions state *Indian* blood degree, however, the best way to change the requirement is to amend the constitution. If the writers of the constitution wanted to enroll only Indians of a certain tribe's blood, they would have written it that way. If the tribe now wants to limit membership to Indians of specific tribal blood, the constitution should be amended.

The constitution may be amended to state tribal blood instead of Indian blood, or to require a minimum blood degree, or to raise the blood minimum. In these cases, there is probably no legal way to take membership away from persons who are already members and who were enrolled before the constitution was amended. This amendment will affect membership decisions only from the date it is approved and becomes law.

CHART TO ESTABLISH DEGREE OF INDIAN BLOOD

PARENTS ▶

▼	N·I·	1/16	1/8	3/16	1/4	5/16	3/8	7/16	1/2	9/16	5/8	11/16	3/4	13/16	7/8	15/16	4/4
1/16	1/32	1/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32
1/8	1/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16
3/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32
1/4	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8
5/16	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32
3/8	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16
7/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32
1/2	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4
9/16	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32
5/8	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16
11/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32
3/4	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8
13/16	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32
7/8	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16
15/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16	31/32
4/4	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16	31/32	4/4
1/32	1/64	3/64	5/64	7/64	9/64	11/64	13/64	16/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64
3/32	3/64	5/64	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64
5/32	5/64	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64
7/32	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64
9/32	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64
11/32	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64
13/32	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64
15/32	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64
17/32	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64
19/32	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64
21/32	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64
23/32	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64
25/32	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64
27/32	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64
29/32	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64	61/64
31/32	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64	61/64	63/64

TO DETERMINE DEGREE OF BLOOD OF CHILDREN, FIND DEGREE OF ONE PARENT IN LEFT COLUMN AND OF THE OTHER PARENT IN TOP ROW. READ ACROSS TO RIGHT AND DOWN THE COLUMN TO THE PROPER DEGREE.

"N·I·" MEANS NON·INDIAN. *EXAMPLE: CHILD OF ONE PARENT 11/16, THE OTHER 5/8, WOULD BE 21/32 DEGREE INDIAN..*

New laws that restrict membership should not be applied retroactively. This means a new law does not apply to people about whom decisions were made before the new law was enacted, unless the new law is less strict than the old one.

Even if the tribe plans to amend the constitution but has not yet done it, membership decisions must be made according to the law that is in effect as of the date stamped on the application. It is not fair to hold a group of applications because sometime in the near future they will be excluded by an amendment.

Conditions For Automatic Eligibility

The conditions placed on "automatic eligibility" vary from tribe to tribe. Here are some common ones:

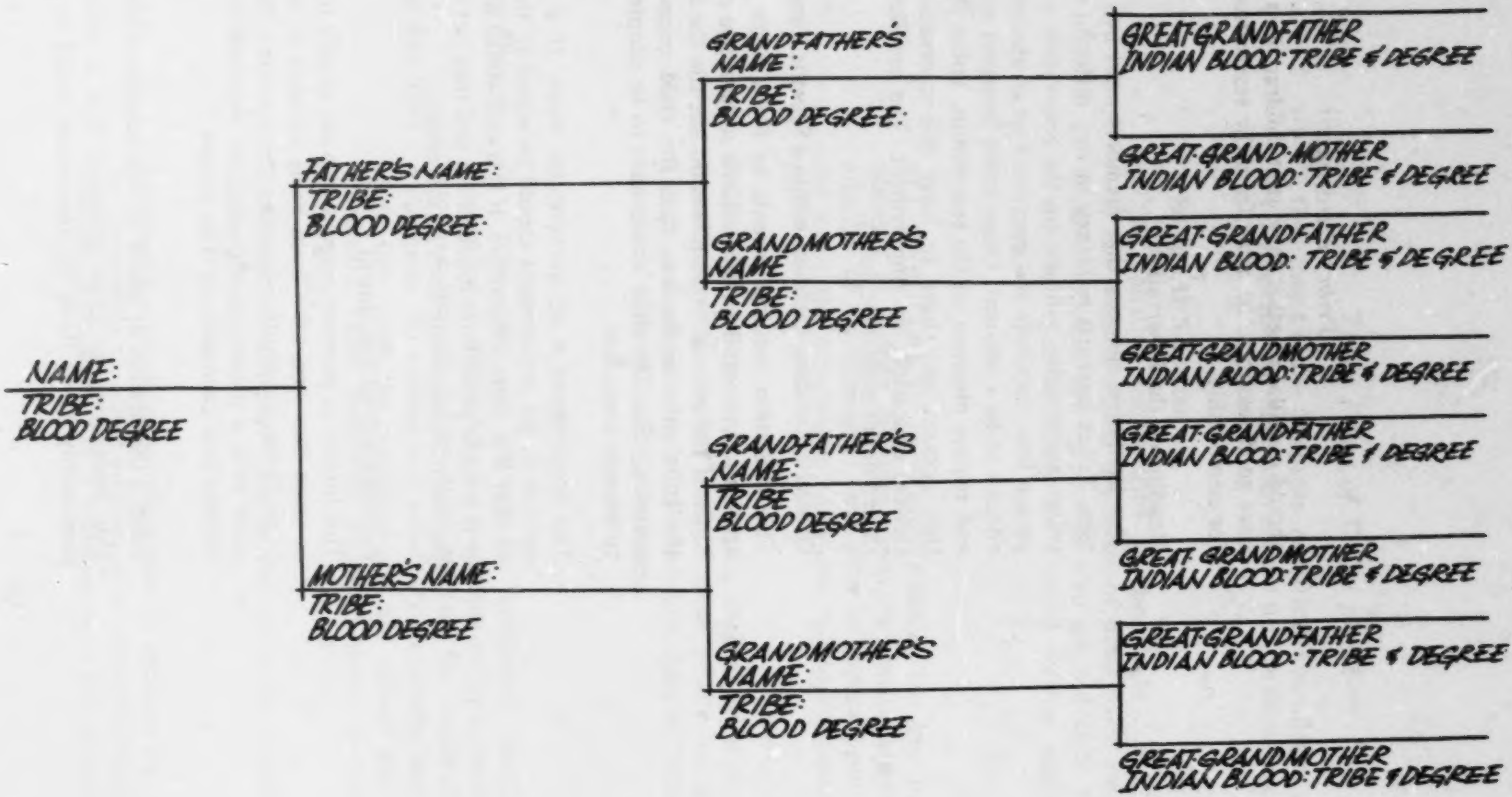
- Having an ancestor on the base roll;
- Having a specific Indian or tribal blood degree;
- Being born to members who reside on the reservation at the time of birth;
- Residency;
- Having parents or guardians file an enrollment application for a child within a specific time after the child's birth;
- Filing a declaration of intent to maintain membership; and
- Being a U. S. citizen.

Ancestry and blood degree have already been discussed. A brief discussion of each of several other conditions follows.

Being Born to Members Residing on the Reservation at the Time of Birth

This limitation usually means that a child's parents must be reservation residents at the time of the child's birth. Tribes

Family Tree with Tribe and Blood Degree


NAME:
TRIBE:
BLOOD DEGREE
FATHER'S NAME:
TRIBE:
BLOOD DEGREE:
MOTHER'S NAME:
TRIBE:
BLOOD DEGREE
GRANDFATHER'S NAME:
TRIBE:
BLOOD DEGREE:
GRANDMOTHER'S NAME
TRIBE:
BLOOD DEGREE
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GRANDMOTHER'S NAME:
TRIBE:
BLOOD DEGREE
GREAT-GRANDFATHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRAND-MOTHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDFATHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDMOTHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDFATHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDMOTHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDFATHER INDIAN BLOOD: TRIBE & DEGREE
GREAT-GRANDMOTHER INDIAN BLOOD: TRIBE & DEGREE

should consider whether they want children born to parents who have good reason to be away from the reservation to be eligible for membership.

Residing on the Reservation

This limitation suggests that members must live on the reservation. Tribes interpret residency in very different ways. For some tribes, maintaining a house on the reservation even though the person lives elsewhere and even votes on an absentee ballot is still enough to be a resident. Other tribes interpret residence strictly and require presence on the reservation. Tribes should be aware that persons may have to leave the reservation for military service, education, or employment. The enrollment ordinance should define residency clearly.

Officially Enrolling Children within a Specific Time

This limitation requires parents to file a birth certificate and application to enroll a child within a certain time after the child's birth. If the parents or guardians do not file the application and the tribe enforces its law, then the child cannot be enrolled automatically. The child would have to be adopted by the tribe to become a member.

This requirement is of questionable value. If a tribe wants to enforce it, the requirement should be stated in the constitution so that it is more substantive. If it is only stated in an ordinance, it is a more procedural requirement and may not be a solid basis for excluding someone from membership.

Prohibiting Dual Enrollment

This limitation prevents persons who can qualify for membership in more than one tribe from being enrolled in more than one tribe. If the constitution contains this provision, the tribe can require such a person to relinquish his membership in the other tribe or face disenrollment if he refuses.

Filing a Declaration of Intent to Maintain Membership

This limitation can cause problems if it is enforced. Persons temporarily away from the reservation could be disenrolled if

they forget to file this paper. An effective enrollment system and a current roll can eliminate the need for this requirement.

Being a U. S. Citizen

This limitation restricts tribal membership to U. S. citizens only. It can cause problems if persons of tribal blood are citizens of other nations. But if persons who are not U. S. citizens are enrolled, their eligibility for Federal services might be questioned.

ALL ENROLLMENT IS CONDITIONAL. The key principle for guidance in making decisions about "automatic eligibles" is the principle of conditionality: Only after an applicant *proves* that he/she meets the membership *conditions* can he/she become a member.

We believe that the term "automatic eligible" is far more accurate than "automatic enrollee", which some people use in its place. This is so because there is really no such thing as "automatic" enrollment – *all* enrollment is conditional.

Demanding Proof That the Conditions Are Met

If a tribe does not enforce the conditions described in its constitution, it should take the conditions out by an amendment. To have laws and not enforce them weakens the constitution and the government. To enforce laws selectively (to require some people to prove they meet the conditions and not others) may violate an individual's equal protection rights. (Chapter 4 explains equal protection.)

If someone cannot prove that he/she meets the conditions, he/she may be adopted.

Adoptees - 3

Adoption is a privilege the tribe grants to someone who does not fit the description of a base enrollee or an automatic eligible. It is the same as naturalization of a foreigner into U.S. citizenship. These people are called "adoptees." Adoptions may or may not require the Secretary of Interior's approval.

- If the tribal constitution requires Secretarial approval of the enrollment ordinance governing adoption, and if the Tribal Council passes an ordinance governing adoption, and if the Secretary has approved the ordinance, *then the Secretary does not have to approve each individual adoption.*

- If the tribe does not have an approved ordinance, *then the Secretary must approve each individual adoption.*

Ordinances governing adoption establish qualifications and procedures for adoption. The tribe must approve candidates for adoption by a vote of the Tribal Council or the general membership.

Adoption Qualifications

The tribe can restrict persons who want to be adopted by listing qualifications in the ordinance. These qualifications might include:

- Specific blood degree
- Legal marriage to a member
- Period of residency on the reservation
- No membership in another tribe
- Approval by the majority of qualified voters
- Approval by the majority of Tribal Council members

Tribes should remember that adoption gives the tribe some freedom in enrolling people into the tribe. If the qualifications the tribe imposes are too strict, then the tribe will lose some of this freedom and the chances to correct oversights and inequities.

Adoption Procedures

The tribe may want to use a form called a "petition" to simplify adoption procedures. (A sample petition is included in Appendix B.)

The tribe should require persons who want to be adopted to file this form at the enrollment office.

The petition should include all the information a tribe needs to know to make an adoption decision. The tribe may want to ask on the petition, "Why should you be a member of this tribe?" This kind of question permits people to describe how closely they may already be connected to the tribe.

The adoption procedures might include a time limit for the Council to decide on an adoption petition. This will help adoption actions proceed within a reasonable time. The procedures should provide for official notice of either adoption or refusal.

Once a majority of the Tribal Council or the tribal membership refuses an adoption, the decision is final.

Conclusion

The purpose of establishing membership conditions in the tribal constitution is to preserve a community of people who have things in common. Tribes should review their membership conditions to ensure that they reflect what the tribe wants. If a condition is confusing and hard to understand, it should be defined in the enrollment ordinance. If a condition causes problems because it is hard to enforce and does not serve the purpose of a condition, the constitution should be amended. If the tribe wants to change the membership conditions, the constitution should be amended.

Finally, remember the principle of conditionality in enrollment: Only after an applicant proves that he/she meets the membership conditions can he/she be an enrollee.

CHAPTER 8

The Base Roll

The base roll is a key document in making tribal membership decisions. This chapter defines the base roll and describes its origin. It explains why some changes may need to be made on the base roll. Because the base roll is a Bureau document, the Bureau is concerned about the changes a tribe makes on it. This chapter therefore outlines the procedures for changing the base roll and indicates why most changes require Bureau approval.

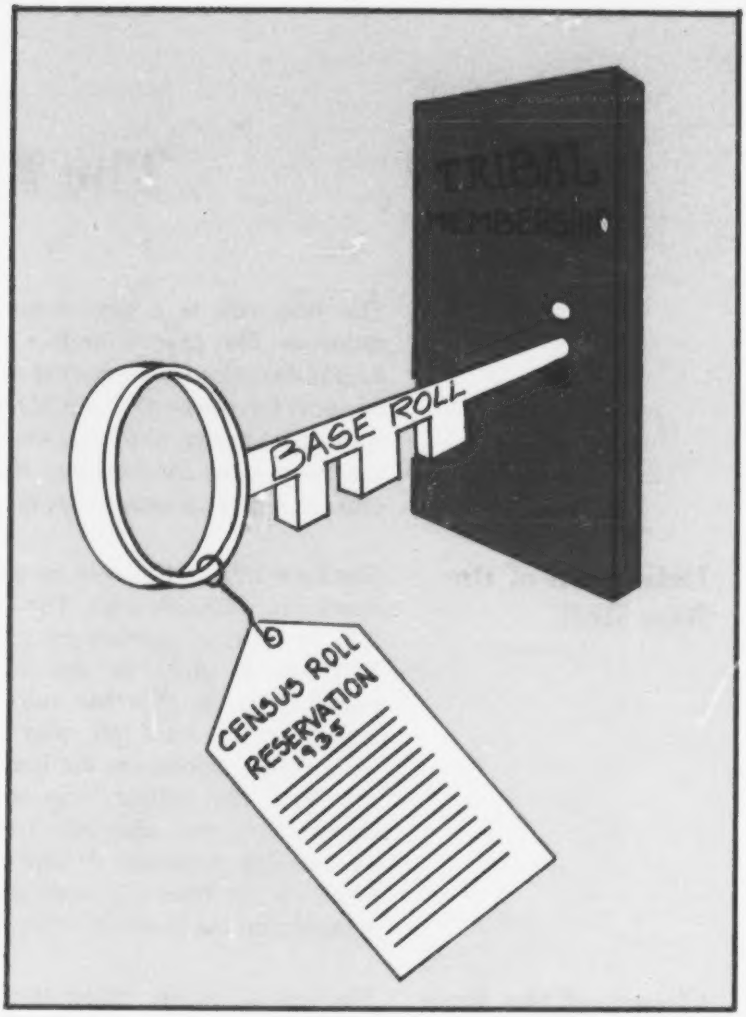
Definition of the Base Roll

The base roll of the tribe is a list of people that was made by the Bureau in a specific year. The list may be a census roll, an allotment roll, or a list of persons who were eligible to live on a reservation. This list is cited in the membership provision of the tribal constitution as the base roll of the tribe. Persons whose names appear on this base roll, who do **not** have an "NE" (not enrolled) before their names, are the basic membership of the tribe. The base roll lists the people who were members at the moment the constitution was adopted. The base roll is the basis for making membership decisions. Persons who wish to be members and are not listed on the base roll must either prove they are descended from someone on the base roll or be adopted.

Origin of the Base Roll

The list of people called the base roll is an official record that belongs to the Bureau. Fifty years ago, few tribes had written records of their members. When many tribes decided to adopt constitutions in the 1930's, they needed written lists of who would be organized under their constitutions. The Bureau had the only records that could even begin to serve this purpose.

These records were not meant to be lists of tribal members. The Bureau had reasons of its own for making the lists. For example, the


TRIBAL
MEMBERSHIP
BASE ROLL
CENSUS ROLL
RESERVATION
1935

Bureau needed to know how many people lived on a reservation in a certain year in order to deliver services to them. This list is called a census roll and is the most common roll designated in tribal constitutions.

The Bureau also made lists of persons who had an allotment of land or who were entitled to an annuity payment. Both kinds of lists contained information about blood degree and family relationships that the tribe could use as a roll of tribal members. Persons on these lists who were non-Indian or not tribal members were indicated with "NE" (not enrolled) marked before their names.

When to Construct a Base Roll

Some tribes will discover that the base roll of the date specified in the tribal constitution does not exist or cannot be found. A tribe in this situation has two alternatives:

- Amend the constitution to state that membership shall be based on a roll which is available

or

- Construct a base roll as of the date cited in the constitution.

How to Construct a Base Roll

When the tribe chooses to construct a base roll as of the date cited in the constitution, it is best to use the *last* complete census *before* the date of the census specified in the constitution *or* the *first* complete census *after* the date of the census specified in the constitution. For example, if the date of the roll needed is 1935, and there exists only a 1934 census, the 1934 census can be used to construct forward in time to 1935. If the tribe needs a base roll for 1935 and has only a 1936 census, it can use the 1936 census and construct backwards in time to 1935. In constructing a base roll, no changes are ever made to the original record. A copy of the original records should be made to work with.

Example of Constructing Forward

NEED: January 1, 1935, census roll

HAVE: January 1, 1934, census roll

STEPS:
1. Make a copy of the January 1, 1934, roll
2. Remove the names of those who died before January 1, 1935
3. Remove the names of persons on the census roll of January 1, 1934, marked with "NE" (not enrolled)
4. Add the names of persons born prior to and living on January 1, 1935

Example of Constructing Backward

NEED: January 1, 1935, census roll

HAVE: January 1, 1936, census roll

STEPS:
1. Make a copy of the January 1, 1936, roll
2. Remove the names of persons born after January 1, 1935
3. Remove the names of persons on the census roll of January 1, 1936, with "NE" (not enrolled) before their names
4. Add the names of those living on January 1, 1935, who died before January 1, 1936.

It is wise to submit a constructed base roll to the Bureau for review and comment, although the tribal constitution may not require approval. A current tribal roll will be developed from the base roll.

Payment rolls *do require* Bureau approval and are based on a current tribal membership roll. Therefore, preparing a current roll from a constructed base roll that has been reviewed by the Bureau ensures accuracy. This may save time when the Bureau must approve a payment roll.

Whether or not the tribe submits the constructed base roll to the Bureau for review or approval, copies should be sent to the Agency and Area Offices.

Errors on the Base Roll

The information on the base roll was most often gathered by people who were familiar with the tribe. As a result, the information is generally accurate. There are, however, many reasons why there may be errors. The most obvious reason is that the lists were not *meant* to be lists of tribal members. A census of all people living on the reservation naturally included non-Indians and nontribal members. The Bureau was not concerned with obtaining absolutely correct information on blood degree or family relationships, for example, in compiling a census or payment roll. People who should have been included but were away from the reservation or living in a remote corner of the reservation at the time of the census may not have been recorded. In addition, there were no earlier records to confirm the information people provided.

Base Roll Corrections: Bureau Approval Required

There are two factors to consider when an error on the base roll is found. First, the base roll of the tribe is a Federal Government document. Changes in this official record should only be made with great care, and the Bureau should always be notified. Second, information on the base roll is personal and changing it affects the membership of descendants. Therefore, this information should not be changed by anyone who claims to have more accurate information without a careful search of the records and approval by the Bureau.

To protect Government property and to protect people from arbitrary record changes, there are proper ways to correct errors. Most constitutions provide for making corrections to the base roll within a specific time period with approval by the Secretary of Interior. If the time to correct is past, or if the constitution does not grant the power to correct, the tribe can request a grant of authority from the Secretary of Interior to correct the base roll.

The request to make corrections must be made by a resolution which states why corrections to the base roll need to be made. The resolution is then submitted to the Secretary of the Interior (or the Secretary's delegated authority, such as the Area Director) who grants the tribe authority to make corrections on the base roll. Corrections to the base roll require the Secretary's approval except for errors apparent on the record. These are discussed on pages 82 and 83.

How to Correct the Base Roll

1. Make a copy of the base roll cited in the constitution and work with the copy, not the original.

2. *Each person listed on the base roll must be accounted for.* When a name is removed from the base roll, it should be placed on a separate list with an explanation of why the name was removed.

3. Remove these names from the working copy of the roll:
    a. Persons with "NE" (not enrolled) before their names
    b. Non-Indians married to tribal members
    c. Persons who died before the date of the roll but whose names were placed on the roll by mistake

4. Add these names to the working copy of the roll:
    a. Persons born before and living on the date of the basic roll whose names should have been on the roll but because of some mistake were not included
    b. Persons who were adopted by the tribe before the date of the roll but were omitted by mistake

5. Make any corrections in spelling, dates of birth, blood degree, errors apparent on the record, sex, etc., and explain the change showing proof when necessary.

Preparing the Corrected Base Roll to Submit for Approval

A corrected base roll looks like this:

Base Roll Number	Census Roll Number	Name	Sex	Date of Birth	Degree of Indian Blood	Tribal Identification Number	Remarks
1	23	Adams, Alice	F	2/24/1880	3/4	204	Date of Death 1/5/56
2	15	Brook, Ben	M	6/1/22	4/4	423	
3	6	Carl, Crank	M	8/23/02	3/4	311	Mother was Alice Adams
4	42	Deer, Della	F	4/13/66	4/4	2039	

The Base Roll

1. **Roll numbers**: Names on the roll should be numbered consecutively (1, 2, 3, 4 . . .). The first column of a corrected base roll should contain the new roll number, and the second column should contain the number that preceded the name on the original base roll.

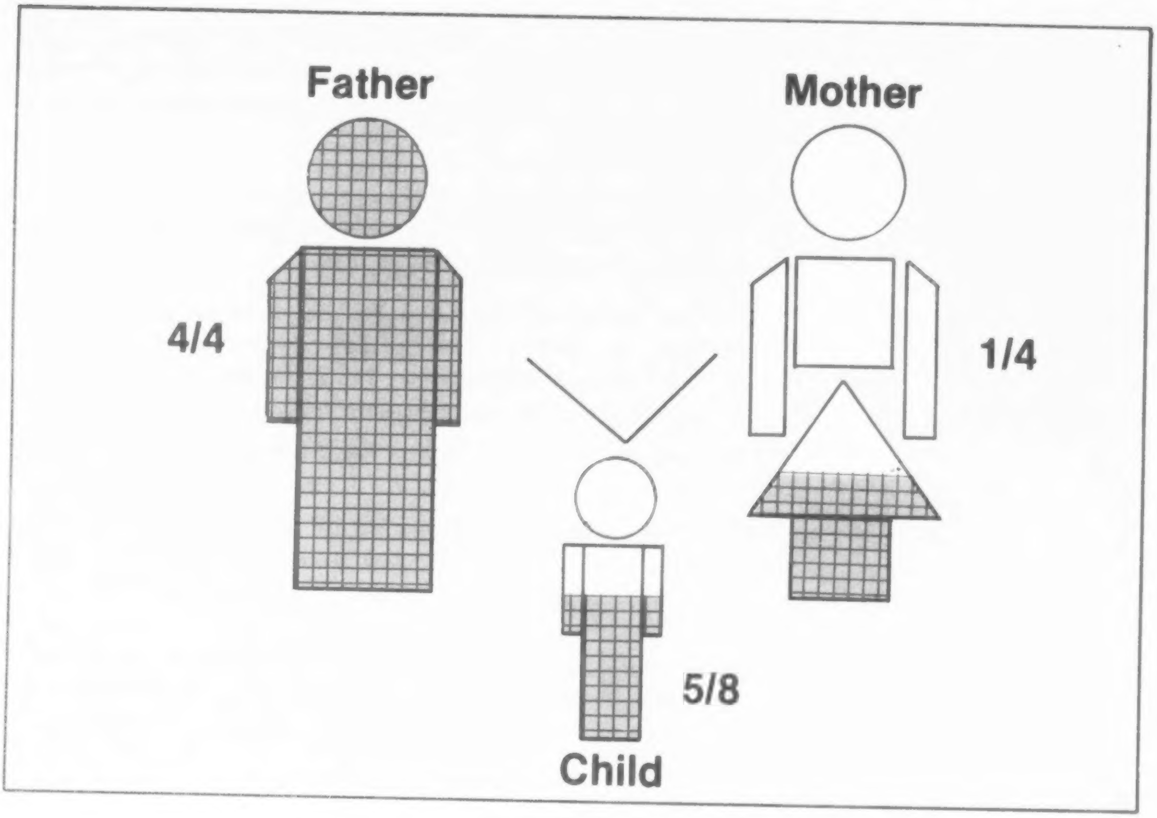
2. **Names in alphabetical order**: Names should be listed in alphabetical order with the last name first.

    - Persons should be listed by the name by which they were known as of the date of the base roll. (If the base roll is January 1, 1935, the person would be listed by the name the person had on that date.)
    - Married women should be listed by their last name as of the base roll date.
    - Other names by which a person was known, such as a woman's maiden name, should be listed after the first name (for example: Seashell, Sally Sue Snail).
    - Children who have last names different from their mother's name should be listed in alphabetical order, and the enrolled parent(s) should be identified in the "Remarks" column.

3. **Sex**: Sometimes names can suggest either sex. In case of question, check the birth certificate to make certain the record is correct.

4. **Date of birth**: Obtain the exact date of birth from the birth certificate. Never indicate age, which changes. For persons born before 1900, avoid confusion by showing the entire year of birth (4/12/1852 rather than 4/12/52).

5. **Blood degree**: The degree of Indian blood possessed by an individual is 1/2 of the combined degree of Indian blood possessed by his parents:



Use the blood degree chart in Appendix E to figure out blood degree.

- Discovering blood degree

  When the base roll does not show blood degree, records must be found that show the blood degree of the person or of the person's ancestors. The search may include records at the Agency, Area, and Central Office levels of the Bureau and records at the National Archives in Washington, D.C. *All* available records must be examined to determine which are the most reliable.

- Conflicting blood degree

  When records show different information or when an individual questions the blood degree shown on the records, all records must be compared to determine which records are the most reliable. There is no set way to determine this. Generally, if *most* of the evidence shows the same blood degree, this establishes the correct blood degree. Testimony of older members of the tribe can help determine blood degree but should *not* be depended on as *the* final word on blood degree.

Blood degree shown on the base roll is presumed correct unless the preponderance of evidence shows that it is not correct.

- Changing blood degree on the base roll

  Blood degree changes on the base roll may only be made when a person *requests in writing* that his or her blood degree or the blood degree of a dead relative on the base roll be changed. All persons who would be affected by the blood degree change of the person on the base roll must be *notified* in writing of the change and given the opportunity to show evidence why the change should not be made.

- Blood degree of a child born to a single mother

  A child born to a single mother can claim only 1/2 of the mother's blood degree unless paternity has been officially established. Different tribes require different evidence of paternity. Whatever documents the tribe accepts as proof of paternity should be in the file to support the blood degree of the child.

6. **Remarks column**: Use this column to provide special information about the person. For example, other names the person uses and names of parents or other ancestors on the roll through whom membership was established should be placed in this column.

Submitting the Corrected Base Roll for Approval

Corrected base rolls submitted to the Bureau for approval must be carefully documented and the reason for each correction should be explained. In addition to the corrected base roll, send the following items:

1. The uncorrected census roll (or allotment schedule or annuity roll) that you began with.
2. A list of names removed from the roll with an explanation for the removal of each one.
3. A list of names added to the roll and an explanation of why each was added.
4. A list of persons whose blood degree was changed. Show the former blood degree and corrected blood degree. Explain what records were used to make the correction in each case.
5. A resolution passed by the Tribal Council certifying that the roll as corrected reflects the basic membership of the tribe.

Structural Errors: Bureau Approval Required

There are two types of errors on base rolls: structural errors and errors apparent on the record. Structural errors occur when names are omitted, no blood degree is indicated, or when the mistake requires further research. Correcting structural errors requires Bureau approval.

Errors Apparent on the Record: No Bureau Approval Required

Errors apparent on the record do not require Bureau approval for correction. The two kinds of errors apparent on the record are 1) errors in Indian or tribal blood degree, and 2) errors in the degrees of blood from different tribes (or blood segregation). Both require that the *parents' blood degrees be shown on the record* in order to show that the person's Indian blood degree was figured wrong.

1. **Errors in Indian or tribal blood degree**: Sometimes fractions of Indian or tribal blood degree are added or divided incorrectly. This is clear from looking at the parents' blood degrees, and no further research needs to be done. It is necessary to follow these steps in making the correction:
    a. Notify the person whose blood degree is to be corrected, as well as relatives affected by the correction, explaining what the correction is and why it is being made.

b. Give the person a chance to present evidence of why it should not be changed.

c. Keep a record on file of the blood degree before and after correction and an explanation of why the change was made.

d. Send a notice of correction to the Bureau so it can change the records.

2. **Errors in tribal blood segregation**: Sometimes fractions of tribal blood are either added or divided incorrectly, or are misrepresented. A person may be listed as 1/4 degree Matuck blood and 3/4 degree Salinowah blood, when actually he is 1/4 Salinowah and 3/4 Matuck. If the mistake in blood segregation is determined from information on the base roll, the tribe can correct it without Bureau approval. It is necessary to follow steps a, b, c, and d from # 1 to make the correction.

Conclusion

Excluding the persons with "NE" (not enrolled) by their names, the base roll cited in the constitution is a basic tribal membership roll. Persons listed on the base roll are called base enrollees in the tribe. All automatic eligibles must be able to trace back to an ancestor who is a base enrollee to establish their authority for enrollment. When a person cannot establish descendance from a base enrollee, that person can obtain tribal membership only through adoption by the tribe.

Finally, construction and correction of a base roll require legal, accurate documentation by enrollment personnel and approval of the Secretary of the Interior because:

- Base roll information is critical in determining the right to membership;
- The information on the base roll is very personal;
- The base roll is a Government document; and
- The base roll governs future generations of tribal members.

READEX FICHE best copy available

CHAPTER 9

An Enrollment System

Tribal government grows stronger as it satisfies members' needs. Membership opens many doors – to land, income, health care, job preference, education, loans. Placing enrollment high on the list of priorities ensures that the tribal constitution has a long healthy life because it continues to meet the peoples' needs.

The Tribal Council has final responsibility for enrollment. As the tribal governing body, Council members must be aware of the importance of tribal citizenship and willing to demonstrate a commitment to enrollment.

Enrollment is a key to effective tribal government. The political life of the tribe depends on the political rights that go with membership. The social, economic, and traditional dimensions of tribal life also depend on the right to membership. The Tribal Council is responsible for the development and preservation of all these elements of tribal life. This job cannot be done without a commitment to an efficient and legal enrollment system.

Laws, not men, govern enrollment. Enrollment decisions would be less explosive and less difficult if the legal nature of enrollment were fully accepted and widely known. The people responsible for enrollment in a tribe are bound by tribal and Federal law as well as basic principles of fairness and justice. They must:

- Apply the requirements for membership equally to all;
- Offer advice to anyone who needs it; and
- Notify rejected applicants of their opportunity to present additional evidence of why they should be enrolled.

Establishing an Enrollment System

An enrollment system is the way tribes determine who qualifies for tribal membership. Tribal and Federal laws that affect enrollment require that certain procedures be included within the system. A good system clearly defines the authority and responsibility of all people involved in enrollment and explains how they should interact. The system should outline the steps to follow in processing applications, from the staff's receiving an application to the Council's passing a resolution on it.

Enrollment system procedures should be established in the enrollment ordinance, which is discussed in Chapter 5. Office space, a filing system, necessary forms, and selecting and supervising personnel are additional elements to consider in developing a working enrollment system.

Enrollment functions can be divided into three levels of activity:

1. Laws, policy, and decision making
2. Administration and recommendations
3. Day-to-day operations

Organizational Review

The division of responsibilities and authority into these three levels creates a system that provides checks on the exercise of too much power at any one level. The principle of organizational review applies here. Each level of the organization reviews the activities of the level before it. Organizational review decreases the chance for mistakes to go unnoticed because there are several levels of review built into the system. This division also reduces the political dimension of enrollment because the three levels of activities are the responsibility of three different groups of people.

Level 1 – The Tribal Council

The Tribal Council's enrollment responsibilities are both stated and implied in the tribal constitution. Most constitutions state that the Tribal Council has the power to pass ordinances or make rules governing future membership, loss of membership, and adoption. If the Council has this power, it must be sure that the enrollment ordinance establishes an orderly, legal system for determining, *An Enrollment System*

Level 1	*Tribal Council* **Laws, Policy, & Decisions**
Level 2	***Enrollment Committee*** **Administration & Recommendations**
Level 3	***Enrollment Coordinator and/or Staff*** **Day-to-Day Operations**

confirming, or denying the right to membership. The standards for a good ordinance are discussed in Chapter 5.

The constitution implies the Council's broad responsibility to oversee enrollment by requiring the Council to promote and guard the tribe's general welfare. The Enrollment Coordinator or Enrollment Committee may intentionally or accidentally fail to apply membership requirements to everyone in the same way or deny membership to someone without the opportunity for a hearing. The Tribal Council, however, is responsible for all enrollment actions. If an angry applicant takes his complaint against the tribe to Federal court, the Tribal Council is responsible for the tribe's defense. The tribe itself pays the price for this wrong in lawyer's fees, court costs, and, possibly, payments to the angry applicant.

On the more positive side, an efficient enrollment system and a current tribal roll greatly benefit the Tribal Council. To represent the tribe to the outside world and make good business decisions require knowing who the tribe's citizens are. The tribal government cannot conduct an election without knowing who can run for office and who can vote. A current tribal roll is therefore essential for the tribe's political machinery to function.

Tribal Enrollment

The Tribal Council should demonstrate an understanding of the importance of an efficient, legal enrollment system. In making enrollment policy and decisions, the Tribal Council should know:

- The membership provision of the tribal constitution;
- The elements of a good enrollment ordinance (see Chapter 5); and
- Federal laws that affect enrollment (see Chapters 3 and 4).

To demonstrate a commitment to enrollment, the Tribal Council should:

- Establish an effective enrollment system in which responsibilities, authority, and communication routes are clearly defined.
- Pass an effective enrollment ordinance. (See Chapter 5 for items to consider in drafting an enrollment ordinance or to check against an existing ordinance.)
- Make enrollment a line item in the budget. The cost of an enrollment office system depends upon the size of the tribe and the amount in the budget. Remember that enrollment personnel have a difficult job that requires experience, knowledge, and trust. They should be paid as well as the tribe can afford. An enrollment office also requires basic supplies and equipment to function properly.
- Employ the best, most experienced, trustworthy people available for enrollment jobs. Do not let politics influence staffing. Rapid turnover in the enrollment office means explosive and costly legal problems for the tribe.
- Provide opportunities for training the Enrollment Coordinator, the staff, and the Enrollment Committee.
- Allow time in each Council meeting for pending enrollment actions and issues.

- Pass resolutions on all enrollment actions to provide a legal record of them.
- Review enrollment procedures regularly to ensure they are in line with the enrollment ordinance, tribal law, and Federal law.

Besides determining enrollment policy, the Tribal Council sets an example for the Enrollment Coordinator, his staff, and the Enrollment Committee to follow. Politics and feelings can undermine an effective enrollment system. There is a tendency to demand written proof from some applicants and not from others, or to hold back certain applications until an amendment excluding the applicant is passed or until he forgets about his application.

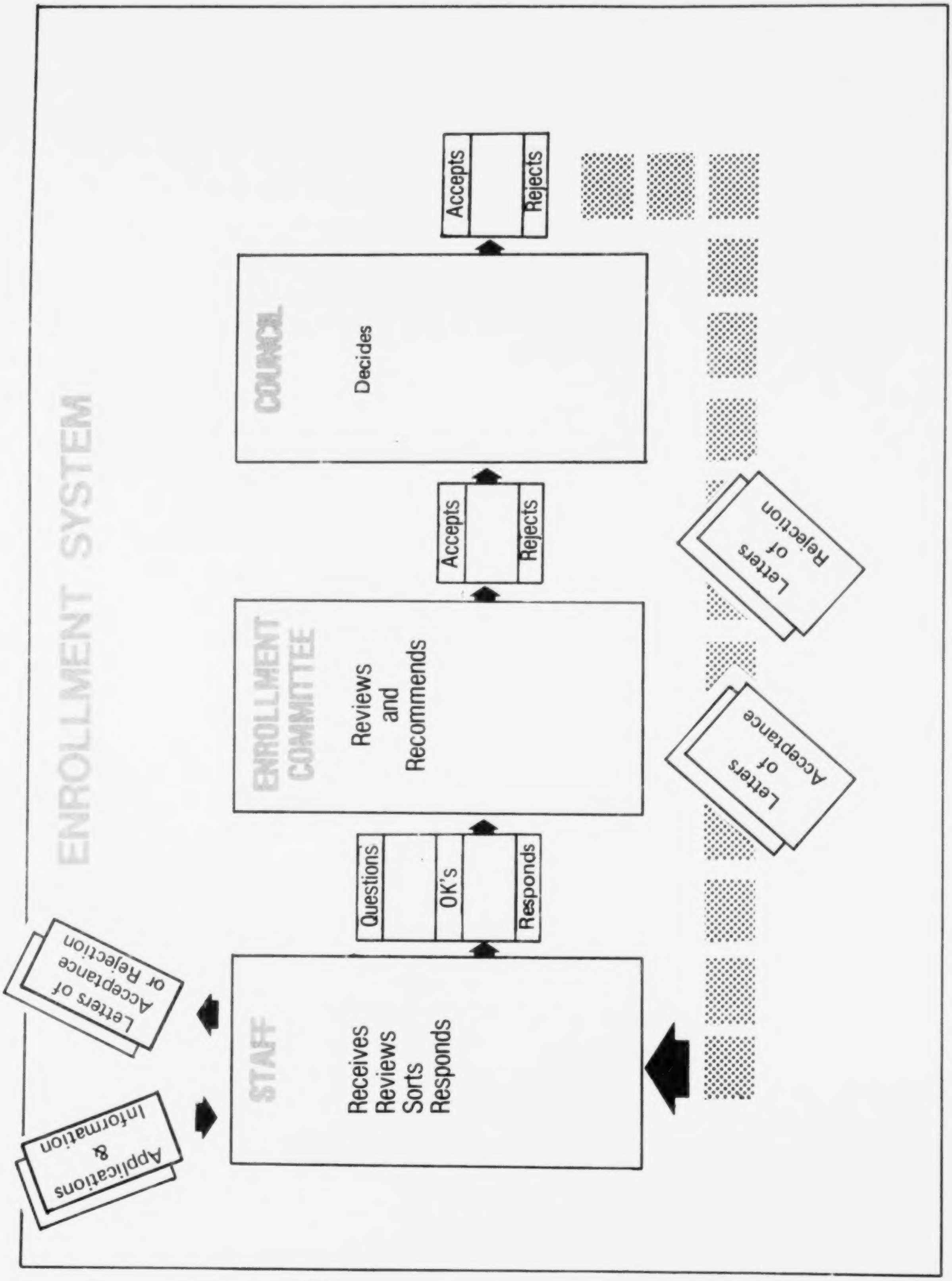
Pressures from family, friends, or enemies may deter the enrollment staff from acting on an application. Fear of making a wrong decision could cause the Enrollment Committee to avoid making any decision at all. There are times when enrollment decisions should be put off, such as when additional evidence is needed. But ordinarily, decisions should be made in a timely manner. The Council and Committee should make their difficult decisions knowing that the enrollment system is set up to guarantee due process of law, to provide appeals for rejected applicants and to implement tribal law.

By acting according to the law on enrollment questions, the Tribal Council can set an example for others to follow and thus guarantee that all applicants are treated legally and fairly.

Level 2 – The Enrollment Committee

The Enrollment Committee is responsible for the Administration and recommendation level of enrollment. This level may include the following activities:

- Preventing applications from piling up in the office by recommending action on them;
- Meeting as often as necessary to take care of enrollment business quickly;


ENROLLMENT SYSTEM
Applications & Information
Letters of Acceptance or Rejection
STAFF
Receives
Reviews
Sorts
Responds
Questions
OK's
Responds
ENROLLMENT COMMITTEE
Reviews and Recommends
Accepts
Rejects
Letters of Acceptance
Letters of Rejection
COUNCIL
Decides
Accepts
Rejects

- Reviewing all applications to be sure information is accurate and documentation is in order, then:

  either

  Officially accepting the applications of automatic enrollees *if the Council has delegated this power,*

  Asking for a Council resolution to cover accepted applicants, and

  Directing staff to send tribal identification cards and certificates of enrollment to those who are accepted;

  or

  Recommending that the Council accept the applications of automatic enrollees and pass resolutions on them, and

  Directing the staff to send tribal identification cards and certificates of enrollment to those who are accepted;

- Reviewing all problem applications and petitions for adoption and making recommendations to the Council to accept or reject them;

- Presenting recommendations and problems to the Council for review and decision;

- Considering all questions and problems raised by staff members and referring those the Committee cannot handle to the Council;

- Reconsidering applications or conducting hearings (if the ordinance empowers the Committee to conduct hearings);

- Recording all actions taken, stating who took them and why;

- Obtaining a regular place on the Council's meeting agenda; and

- When problems appear in the enrollment system itself, drafting a solution (in the form of an amendment to the enrollment ordinance if necessary) and presenting it to the Council.

The Enrollment Committee should have three to five members, regardless of the size of the tribe. One Committee member should also be a member of the Tribal Council. The presence of a Council member on the Enrollment Committee makes communication between the two groups easier.

If the Enrollment Committee consists *only* of Tribal Council members, however, it cannot serve as the middle step in the review of enrollment matters. It is likely that the Council would not thoroughly review recommendations from a Committee composed only of Council members. A true middle step in the enrollment system provides a fresh look at the enrollment issues. The Committee can *recommend* actions, and the Council can *act* on them. This middle step is an additional check on the accuracy of applications.

The Committee should have a chairperson to conduct meetings and to be the contact person with the staff. A secretary should record the minutes of the meetings.

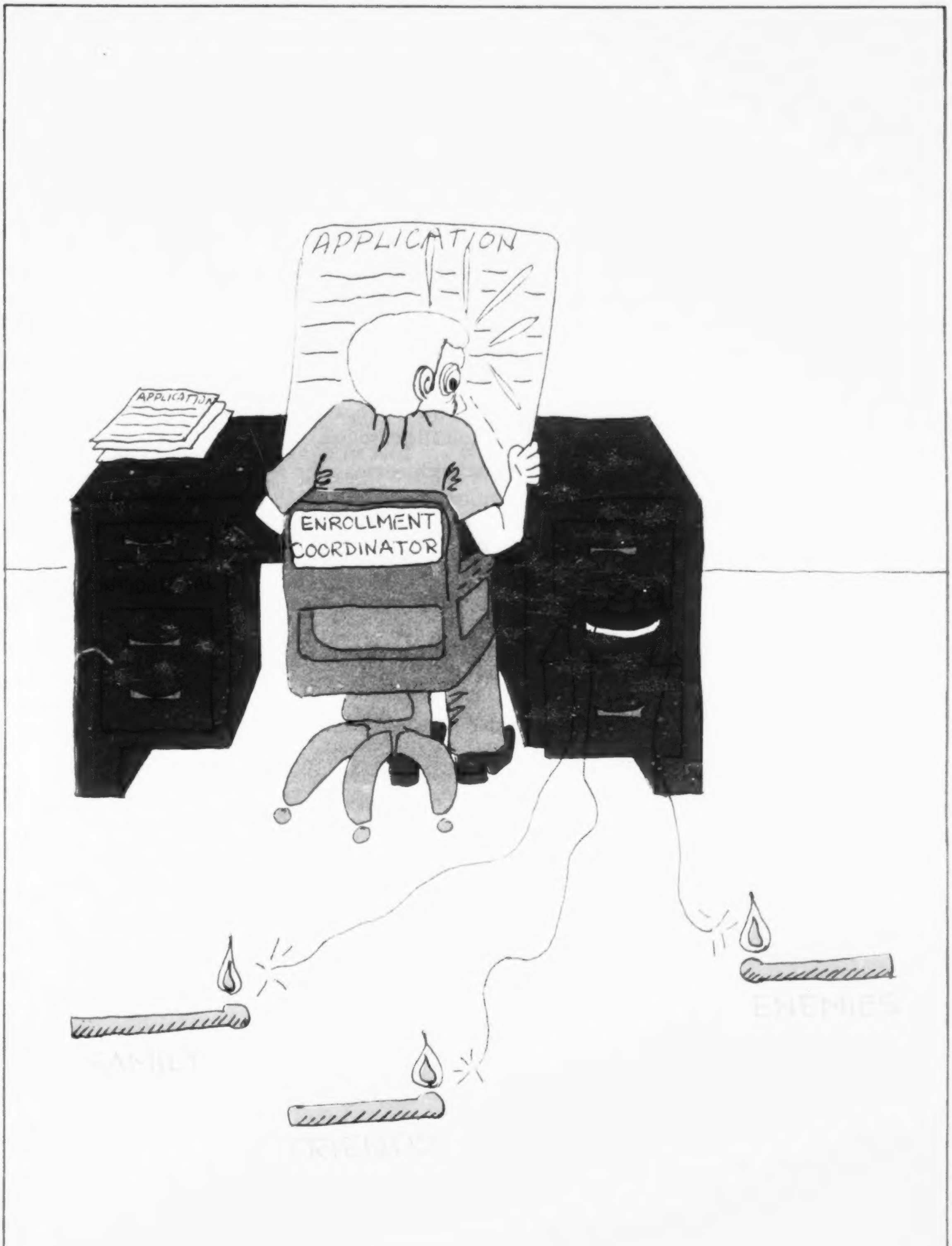
Level 3 – The Enrollment Coordinator

The Enrollment Coordinator (Officer) and staff conduct day-to-day enrollment operations, which include these activities:

- Receiving applications for enrollment, stamping them with the date they are received, immediately making a folder for each applicant, and placing all of the applicant's documents in the folder;

- Reviewing applications to see that all required information and documentation are provided;

- Contacting applicants by mail or phone to request additional information or documentation;


APPLICATION
APPLICATION
ENROLLMENT COORDINATOR
FAMILY
FRIENDS
ENEMIES

- Meeting with the Enrollment Committee to present all items received;
- Sorting incoming questions, requests, and applications with supporting documentation into (for example):

  Applications with no apparent reason for rejection (the base and automatic enrollees)

  Applications with reasons for rejection or insufficient documentation

  Applications that present special problems

  Petitions for adoption

  Questions the staff cannot answer;
- Maintaining the enrollment files and keeping information current;
- Using form letters as much as possible;
- Recording all correspondence and conversations with all applicants so that problem applications can be handled easily;
- Recording all actions taken, stating who took them and why;
- Researching records to find the best information possible;
- Responding to requests for forms and information;
- Maintaining the supply of forms used in the office; and
- Guarding the privacy of members and applicants by keeping all information confidential.

The number of staff members required to perform these activities depends upon the size of the tribe and the budget. If the tribe and budget are small, only one person – an Enrollment Coordinator or

Officer – may be necessary to run the whole operation. For larger tribes with bigger budgets, a staff made up of a file clerk, an enrollment clerk, and/or a technician may be needed to support the Enrollment Coordinator. In this case, activities should be assigned to specific personnel.

The Enrollment Coordinator who has staff support should be experienced in enrollment. He or she should guide the staff's research, correspondence, and filing activities. The Coordinator can then direct his or her attention to the problems that arise rather than to routine operations. The Enrollment Coordinator also serves as the liaison or contact person between the staff and the Enrollment Committee.

Establishing an Enrollment Office

In establishing an enrollment office, the Tribal Council should consider:

- The size of the tribe, which determines how many full-time and/or part-time personnel are required to do the job;
- How often the Enrollment Committee should meet;
- How much office space is required;
- What portion of the budget is necessary for staff, supplies, and office;
- How to develop job descriptions;
- How to establish a chain of communication from the staff to the Enrollment Committee to the Tribal Council;
- How to keep enrollment records confidential (discussed later in this chapter);

- Who makes decisions on applications and who hears the appeals (see Chapter 5); and
- How to supervise the enrollment staff.

Furnishing the Office

An enrollment office requires basic office equipment: desk and chair, telephone, typewriter, in and out baskets, date stamp, filing cabinet, and office supplies. To safeguard the privacy of the enrollment files, the filing cabinet and the office should be locked when not in use. Only specific personnel should be authorized to use the files.

The filing cabinet should be organized to permit easy access to these items:

- Tribal constitution
- Enrollment ordinance
- Base roll
- Current roll
- Minutes of Enrollment Committee meetings
- Folders on all enrolled members, arranged alphabetically
- Folders on all rejected members, arranged alphabetically
- Folders containing enrollment forms
- General information on enrollment:
  Training materials
  Solicitor's opinions
  Memos from the Bureau
  Sources of information, such as social welfare services, adoption agencies, hospitals, mortuaries, bureaus of vital statistics.

The folder for *each person enrolled* should contain the following items:

- Application form
- Family tree
- Birth certificate (certified copy)
- Residency record
- Correspondence with the person
- Copy of Enrollment Committee's recommendation votes
- Record of children's births
- Copy of resolutions enrolling children
- Death certificate
- All other documentation on the person pertinent to membership in the tribe.

The folder for *each rejected applicant* should contain:

- Application form
- All correspondence with the person
- All documentation received
- Copy of Enrollment Committee's recommendation votes
- Copy of resolution rejecting the person for enrollment
- Records of hearing and appeal.

Forms

An enrollment system that develops and uses forms and form letters as much as possible will run smoothly and leave little room for error. Enrollment personnel should develop forms that reflect the specific information they need. Sample forms that can be modified to meet a specific tribe's needs appear in Appendix B.

The following kinds of forms are included:

- Cover letter responding to request for an application
- Enrollment application
- Recommendation votes and Committee attendance record
- Council decision votes
- Letter of acceptance or rejection
- Enrollment certificate
- Tribal identification card
- Sworn statement of paternity
- Petition for adoption
- Notice of blood correction
- Relinquishment form.

Privacy

The people who work in the enrollment office have access to very personal information about members and applicants. Every effort must be made to keep this information confidential. As "public servants," the enrollment personnel must be worthy of the tribe's trust in them. Revealing information to family and friends or permitting just anyone to see the records violates this trust.

Careful thought must be given to a person's right to see the records in order to establish his or her right to enrollment. This right may conflict with a member's right to have the records kept confidential. Decisions can be made only on a case-by-case basis. Ways can be devised, however, to avoid revealing the records and yet still permit an applicant to establish his or her right to membership. For example, a nontribal member could examine the records and sign a statement swearing that someone does or does not meet a certain requirement based on what the record shows.

Conclusion

This chapter is not intended to present a model enrollment system for all tribes to follow. Each tribe is unique, with needs and limitations that might not permit the adoption of this particular system.

For example, each tribe should consider its own enrollment ordinance, personnel system, government's organizational structure, and delegation of administrative responsibility in establishing an enrollment system.

This enrollment system should serve only as a standard for the tribe to use in evaluating or developing its own enrollment system.

CHAPTER 10

Documentation

Documentation means supplying evidence that supports a statement of fact. No enrollment action should be taken without documentation to support the decision. Documentation is a difficult, yet very critical part of enrollment. Making a membership decision without evidence, or taking action on membership without keeping accurate records, can result in serious legal problems for the tribe.

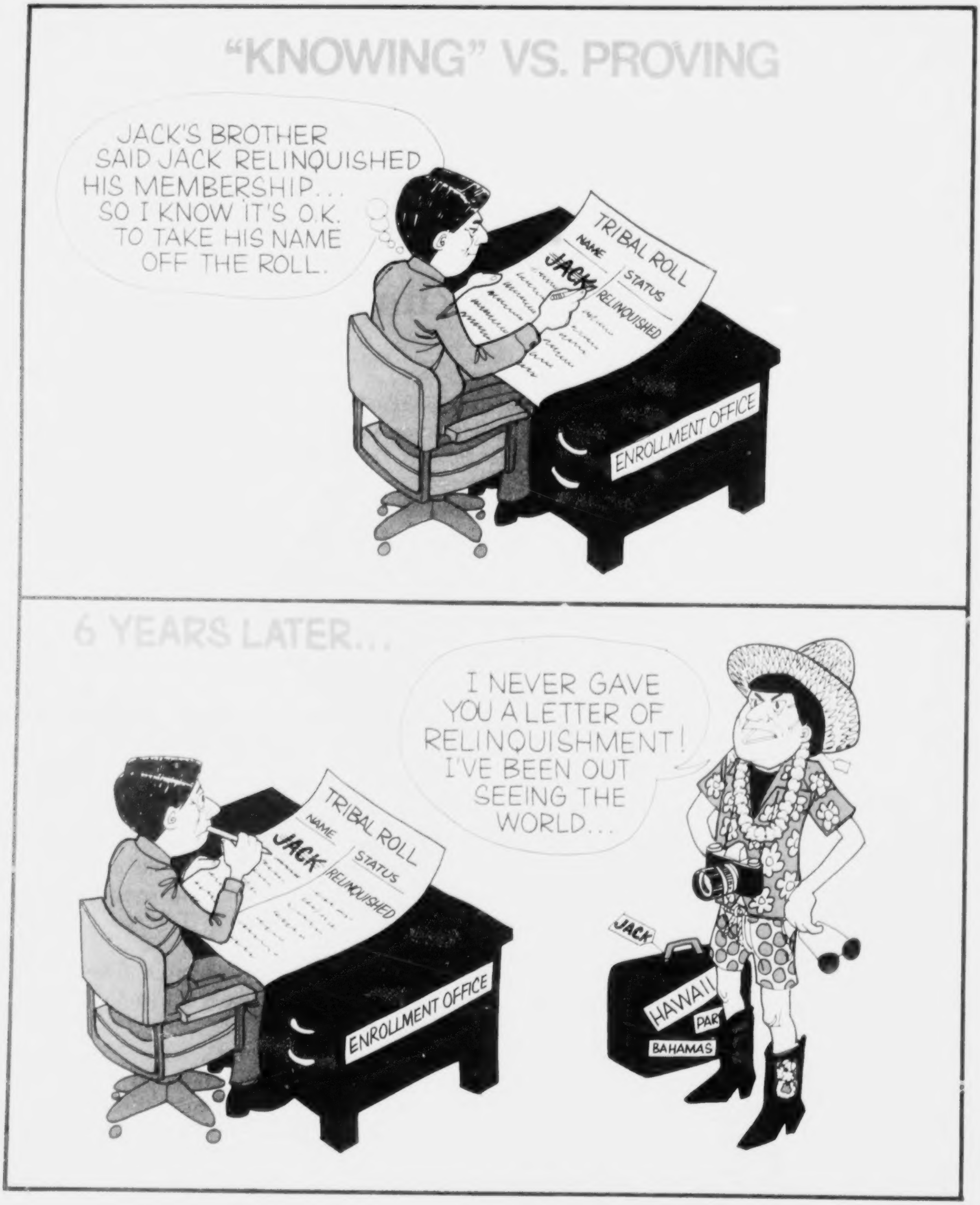
There is a basic principle to rely on in making membership decisions: *NOTHING IS TRUE UNTIL YOU HAVE WRITTEN EVIDENCE THAT IT IS SO.*

Making enrollment decisions can be uncomfortable when the applicants are relatives, personal friends, or enemies. Regardless of who the applicant is, the same documentation must be required from everyone. In a small community, enrollment personnel may feel they know an applicant's blood degree, family relationships, or date of birth. They may think they know who is the father of a child born to a single mother or that someone relinquished his membership. But "knowing" carries no weight either in an effective enrollment system or in a court of law. Proof on paper, from birth certificates to affidavits, is critical in enrollment.

Enrollment personnel must, therefore, demand proof from every applicant, regardless of whether the applicant is a friend or family member.

This chapter will help enrollment personnel in their detective work and enable them to advise applicants who ask for assistance. A checklist of acceptable legal evidence is provided for several common enrollment situations that require documentation. Evidence is listed in order of preference, with the most preferred listed first. In

DOCUMENTATION



“KNOWING” VS. PROVING

JACK'S BROTHER SAID JACK RELINQUISHED HIS MEMBERSHIP... SO I KNOW IT'S O.K. TO TAKE HIS NAME OFF THE ROLL.
TRIBAL ROLL
NAME
STATUS
JACK
RELINQUISHED
ENROLLMENT OFFICE
6 YEARS LATER...
I NEVER GAVE YOU A LETTER OF RELINQUISHMENT! I'VE BEEN OUT SEEING THE WORLD...
TRIBAL ROLL
NAME
STATUS
JACK
RELINQUISHED
ENROLLMENT OFFICE
JACK
HAWAII
PAR
BAHAMAS

addition, this chapter provides practical suggestions on where to find the evidence.

A few words about affidavits need to be said. Affidavits are signed statements that something is true. It is best to obtain affidavits from persons who have no direct interest in a question, but do have knowledge of it. In addition, three affidavits are generally considered acceptable proof. Affidavits are useful forms of proof when no official records can be obtained.

Remember to check these sources for help in finding good documentation:

- Bureau of Indian Affairs
- Indian Health Service (Public Health Service)
- Adoption agencies
- Welfare agencies
- Bureaus of vital statistics at the State and local levels
- Historical societies
- Museums and library archives
- Newspapers
- Elderly tribal members.

Birth

1. **BIRTH CERTIFICATE OR CERTIFIED COPY**

2. **HOSPITAL, CLINIC, OR DOCTOR'S RECORDS**

3. **BAPTISMAL CERTIFICATES**

4. **AFFIDAVITS SIGNED BY RELATIVES, FRIENDS, OR DOCTORS**

The affidavits should state when the person was born, where, and who the parents were. Where there is a question of paternity, this affidavit alone should not be used as evidence.

Birth Certificate

The most acceptable proof of birth is a *birth certificate*. It can be used to prove:

- Date of birth
- Mother's identity
- Father's identity if parents are married
- Father's identity if parents are not married but he personally signs his name on the birth certificate
- Place of birth.

To obtain a certified copy of a birth certificate, applicants should write to the vital statistics office of the state, independent city, or county where the birth occurred.

When asking for a copy, enclose a check or money order since the office cannot refund cash if it is lost in the mail. Fees listed below can change.

Include these facts (if known) in the letter of request:

- Full name of person whose record is being requested
- Sex and race
- Parents' names, including mother's maiden name
- Month, day, and year of birth
- Place of birth (city or town, county, state; name of hospital)
- Purpose for which copy is needed
- Relationship to person whose record is requested.

Remember that births occurring before registration was required or births not registered when they occurred may have been filed as "delayed registrations." Note this in the letter if it applies to the record being requested.

Documentation

Addresses and other information for state offices often contacted are listed below.

Born (or died) in Arizona

Division of Vital Records
State Department of Health
P. O. Box 3887
Phoenix, Arizona 85030

Cost of Copy: $2.00

State Office has records since July 1, 1909, and abstracts of records filed in the counties before that date.

Born (or died) in California

State Department of Public Health
Vital Statistics Section
410 N Street
Sacramento, California 95814

Cost of Copy: $2.00

Born (or died) in Nevada

Department of Human Resources
Division of Health-Vital Statistics
Office of Vital Records
Capitol Complex
Carson City, Nevada 89710

Cost of Copy: $2.00

State Office has records since July 1, 1911. For earlier records, write to County Recorder in county where birth occurred.

Born (or died) in Utah

Division of Vital Statistics
Utah State Department of Health
554 South Third East
Salt Lake City, Utah 84113

Cost of Copy: $3.00

State Office has records since 1905. If birth occurred from 1890 through 1904 in Salt Lake City or Ogden, write to City Board of Health. For records elsewhere in the State from 1898 through 1904, write to County Clerk in county where birth occurred.

Death

1. **DEATH CERTIFICATE OR CERTIFIED COPY**

2. **MORTUARY RECORDS**

   Contact morticians in the area where the person is known to have died.

3. **FUNERAL DIRECTOR'S RECORDS**

   Contact funeral directors in the area where the person is known to have died.

4. **HOSPITAL, CLINIC, OR DOCTOR'S RECORDS**

5. **AFFIDAVITS SIGNED BY RELATIVES, FRIENDS, OR DOCTORS**

   Affidavits state when the person died and where.

6. **AFFIDAVIT SIGNED BY SOMEONE WHO SAW THE GRAVE MARKER AND NOTED THE DATE OF DEATH**

Death Certificate

The *death certificate* establishes the date and place of death. It is required to show why a base enrollee is not on a current roll. Also, the enrollment office should be keeping all vital statistics on tribal members.

To obtain a certified copy of a death certificate, write to the vital statistics office of the state, or independent city where the death occurred.

When writing for a copy, enclose a check or money order since the office cannot refund cash lost in the mail. The fees listed for copies of birth certificates are the same for death certificates.

Include the same facts in the letter of request for copies of death certificates as those listed for birth certificates. The addresses of state offices are also the same.

Marriage

1. **MARRIAGE CERTIFICATE ISSUED BY A STATE**

   Certified copies of marriage certificates can be obtained by applicant by writing:

If married in Arizona	Clerk of Superior Court in county where license was issued.
If married in Nevada	Department of Human Resources Division of Health-Vital Statistics Capitol Complex Office of Vital Records Carson City, Nevada 89710 *or* County Recorder in county where license was issued.
If married in Utah	County Clerk in county where license was issued.

2. **AFFIDAVITS SIGNED BY WITNESSES TO A TRIBAL CUSTOM MARRIAGE**

Blood Degree and Family Relationships

Because blood degree depends on family relationships, the two are considered together. Many records that are good for proving family relationships, however, cannot be used for proving blood degree. The people who wrote the blood degree information on the records often didn't know the individuals and made mistakes. This is why birth and death certificates are not acceptable proof of blood degree.

1. **CENSUS ROLLS, ANNUITY PAYMENT ROLLS, AND ALLOTMENT SCHEDULES**

   If the tribe does not have copies of these records, the Bureau can help. Contact the Bureau at the Agency, then the Area Office, and finally the Central Office located in Washington, D.C.

2. **INFORMATION FROM THE NATIONAL ARCHIVES**

   If the name of the tribe is known, very early census rolls and other Indian records dating from 1830 to 1940 are available at the National Archives in Washington, D.C.

For help by mail, give the name of the Indian ancestor(s), birth and/or death dates when known, the name of the tribal group, and the period of time the person was known to be a tribal member.

Write to: National Archives & Records Service
8th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20408

3. **OTHER RECORDS**

If the name of the tribe is not known, check the records of churches, towns, cities, counties, and states for items such as these:

- Birth records (not for blood degree)
- Adoption service records
- Welfare office records
- Baptismal certificates
- Marriage certificates
- Death certificates.

4. **NEWSPAPERS**

Newspapers in the area and time of the ancestor's residence contain news of local events, including births and deaths, that can be helpful. Libraries and state archives keep copies of old newspapers.

5. **STATE HISTORICAL SOCIETIES**

State historical societies often keep old records and papers that can be helpful.

Paternity

Proving paternity comes up when trying to determine the blood degree of a child born out of wedlock. There are three legally acceptable proofs of fatherhood when the mother is not married.

1. **A STATEMENT ACKNOWLEDGING PATERNITY WHICH IS SIGNED BY THE FATHER**

2. **A DECREE WHICH IS ISSUED BY COURT OF LAW THAT STATES WHO THE FATHER IS**
3. **THE FINDINGS OF A PROBATE EXAMINER**

Abandonment

The tribe should define abandonment in the enrollment ordinance, if the tribal constitution empowers the Tribal Council to pass ordinances governing loss of membership. Proving that someone has abandoned membership is very difficult when tribal members live and work off the reservation. To take away someone's membership because the tribe thinks the person abandoned may be very dangerous. If the tribal constitution states no requirement, such as residency, against which the tribe can measure whether or not a person has abandoned, then it would be wise not to assume anyone has abandoned.

While the burden of proof in *establishing* the right to membership is on the applicant, the burden of proof is on the tribe in *proving* abandonment because it involves *taking away* the right to membership.

If the tribal constitution requires a period of residency to continue being a member, then proof that someone lives elsewhere *for a certain period* is acceptable. Records that show residency for a year or two would not be acceptable proof of abandonment. It may be necessary to gather several kinds of proof that show residency over a period of years. The following records show residency.

1. **VOTER REGISTRATION**
2. **PROPERTY OWNERSHIP OR RENTAL**
3. **CAR REGISTRATION**
4. **DRIVER'S LICENSE**
5. **CREDIT CARD ADDRESS**

Relinquishment

The only acceptable proof of relinquishment is a *signed letter of relinquishment.* This may be a form letter made up by the tribe or a letter written by the person who is relinquishing. The relinquishment statement should say "effective as of" a specific date.

Notification to Applicant from the Enrollment Office

As Chapter 4 explains, notice is a very important part of providing due process of law. For the tribe to prove that due process was given to an applicant, there must be proof that the applicant was notified.

The best way to prove that notice was given and received is by mailing the notice by certified mail with a return receipt requested. Certified mail is delivered directly into the hands of the applicant and the tribe gets a receipt from the U.S. Postal Service showing that the person received the notice. This receipt, plus a copy of the notice, should be kept in the applicant's file to prove that notice was given by the tribe and received by the applicant.

Enrollment in Another Tribe

Proving that someone is enrolled in another tribe might be necessary when the tribal constitution prohibits dual enrollment, and a person is suspected of this.

1. **OBTAIN A WRITTEN STATEMENT DIRECTLY FROM THE TRIBE IN WHICH THE PERSON IS CURRENTLY ENROLLED**
2. **ASK THE AREA OFFICE TO CHECK THE TRIBE'S ROLL AND CONFIRM WHETHER OR NOT THE PERSON IS ENROLLED**

Enrollment Actions

All enrollment actions should be documented. Some of these records might be:

1. **NOTIFICATION TO APPLICANTS**

   These notices should be sent by certified mail with return receipt requested, and the receipts should be filed.

2. **COUNCIL RESOLUTIONS**

   Persons accepted or rejected for membership should be covered by Council resolutions. A copy of the resolution should be kept in the person's file.

3. **PROCEEDINGS OF MEETINGS**

   Records of the proceedings of Enrollment Committee meetings, Council meetings, and hearings should be carefully noted and filed.

4. CONTACTS BETWEEN ENROLLMENT PERSONNEL AND APPLICANTS

Calls, letters, and meetings between enrollment personnel and applicants should be noted, described (who said what to whom and when), and filed.

Conclusion

People should know that enrollment is based on law and that everyone who applies for membership is expected to provide evidence; it is up to the enrollment personnel to make this known. The task of finding evidence is so difficult that the information in this chapter and the research experience of the enrollment staff should be available to anyone who asks for help. It does not really help an applicant when enrollment personnel "bend the rules" and do not enforce the requirement for documentation. This person's records and right to membership could be questioned at any time if good documentation does not support the right to membership. More important, the lack of evidence can seriously undermine the enrollment system and hurt the tribe.

CHAPTER 11

The Current Tribal Membership Roll

This chapter provides step-by-step instructions on how to prepare a current tribal membership roll for tribal purposes. Updating the base roll is much more difficult than it appears here because of all the specific questions and problems that arise in the process. Chapter 14 addresses common questions and problems. This chapter explains only the basic steps in updating a tribal roll and keeping it current. Once the tribe achieves a current membership roll, keeping it current becomes a daily task that requires an enrollment system. Chapter 9 discusses the enrollment system in detail.

The following outline describes the manual method of making a current roll. To prepare a computerized tribal roll, the tribe follows the same essential steps but uses different forms. A computerized tribal roll should be the goal of all tribes because of its many advantages. This chapter includes a brief discussion of the nature and advantages of a computerized tribal roll.

Updating Step-by-Step

1. ENROLLMENT SYSTEM

The Tribal Council sets up an enrollment system (Chapter 9) that follows a comprehensive enrollment ordinance (Chapter 5).

2. FORMS

Develop forms to obtain required information and to respond to standard questions, as well as form letters to cover a variety of situations. (See Chapter 9 for more information on forms and Appendix B for sample forms.)

3. BASE ROLL

The Enrollment Committee obtains a working copy of the *base roll* specified in the constitution. The actual document cited in the tribal constitution should not be used. Therefore, you use a working copy.

4. PUBLICITY

There is a continuing need to inform people about how to apply for membership and what the enrollment office does. Notices should contain the following information:

- The purpose of preparing and maintaining a current tribal membership roll
- Where to obtain application forms
- Whom to contact for additional information and advice

This information may be published in the following ways:

- Tribal newspaper
- Press release in local papers
- Notices posted in community gathering places

5. REMOVING NAMES FROM THE WORKING COPY OF THE BASE ROLL

- Remove the names of dead persons from the working copy of the base roll if there is written proof of death.
- Make a file folder for each person removed from the base roll. The proof of death, together with other basic information on the person (see Chapter 9), should be kept in this file.
- Examples of acceptable proofs of death include:

  Death certificate or certified copy of death certificate

  Obituary notice from a newspaper

  Written, signed statement from relatives

  Signed statement from someone who saw the grave marker and can provide date of death

Further discussion of acceptable proof is in Chapter 10.

6. RECEIVING APPLICATIONS

- Check all incoming applications for completeness. An incomplete application should be returned to the applicant immediately, with a letter explaining why it is incomplete. Retain a copy of the incomplete application for the file.

- Stamp all applications received with the date on which they are received.

- Make a folder for each applicant as soon as the application comes in. Include the application, correspondence, and all documentation in this folder.

- Separate complete applications into stacks, such as:

  Applicants born to parents who are resident tribal members

  Applicants descended from someone on the base roll who also meet other requirements

  Applicants who may require adoption or rejection for one or more of these reasons:

  Is not descended from a tribal member;

  Does not meet the blood degree requirement;

  Does not meet other requirements stated in the tribal constitution; and

  Does not have proper documentation.

7. INFORMING APPLICANTS OF THEIR APPROVAL OR REJECTION OR NEED FOR DOCUMENTATION

- Use form letters to notify applicants of their approval. Include tribal identification card and certificate of membership.

- Use form letters whenever possible to notify rejected applicants of reasons for rejection and to provide applicants with an opportunity to appeal the decision of the Council by presenting evidence of why he or she should be enrolled. An example of a letter requesting evidence is in Appendix B.

- Rejected applicants may appeal the tribe's decision to the Commissioner only when the tribal constitution so provides.

8. PLACING NAMES ON THE ROLL

Add names of persons who are approved for membership in alphabetical order to the roll. To make alphabetizing easier, use a card file for the membership roll so that cards can be moved to their proper places.

9. FINALIZING THE ROLL

When action has been taken on all applications and hearings have been held for the appeals of rejected applicants, the roll may be prepared manually (typing) or by a computer.

- A manually prepared or typed roll should look like the illustration on page 119.
- A computerized roll is prepared according to these steps:

  Tribal Council passes a resolution or writes to request time for the preparation of a computerized roll from Tribal Systems in Albuquerque.

  An "add sheet" is prepared on each tribal member. This sheet, containing information on each person, is fed into the computer. (See illustration on page 124.)

  After all add sheets have been fed into the computer, the tribe receives a print-out or list of all tribal members. (See pages 125-127.)

10. PROOFREADING THE ROLL

The tribal membership roll (typed or computerized) should be carefully proofread for errors.

Indian Census Roll

of the Matuck reservation/Blue River Jurisdiction

Census Roll No		Name		Sex	Age last birthday	Tribe	Degree of Blood	Marital Status	Relationship to head of family	Residence					Ward		Allotment, Annuity & I.D. no.
Pres.	Last	surname	given							Jurisdiction where enrolled yes - no	at other Jurisdiction name	elsewhere p.o.	city	st.	yes	no	
1	1	Caldwell	Ben	m	22	Mat'k	F	m	head	yes							
2	2	Caldwell	Eloise	f	21	Mat'k	3/4	m	wife	yes							
NE	NE	Lee	Robert	m	60	White	F	s	head	yes							
3	6	Potomac	Pauline	f	42	Mat'k	5/8	m	wife	no	unknown						
4	7	Runsfast	Rachel	f	53	Mat'k	F	s	head	yes							
5	8	Eldorado	George	m	35	Mat'k	F	Wd.	head	yes							
NE	NE	Garcia	Rosa	f	15	White	F	s	dau.	yes							

11. SENDING THE ROLL TO THE BUREAU

Copies of the current tribal membership roll and the Council resolution approving the roll should be sent to the Agency and Area Offices of the Bureau.

How to Maintain a Current Tribal Membership

Having achieved a current tribal membership roll, the tribe must now keep it current. Events occur daily in the lives of members that should be recorded. Enrollment questions and requests require official responses from the tribe. An effective enrollment system and comprehensive enrollment ordinance enable the tribe to maintain a current tribal membership roll and respond quickly and efficiently to questions and requests. The following events show the need for most tribes to handle enrollment on a daily basis:

- Births to members
- Deaths of members
- Petitions for adoption
- Marriages and divorces
- Relinquishments
- Disenrollments
- Voting in elections and running for tribal office
- Requests for blood degree corrections
- Requests for enrollment from persons who were adopted out of the tribe prior to being enrolled and who now want to be enrolled
- Requests for information and membership application forms
- Requests for help in obtaining official documents
- Corrections to the roll
  Names
  Addresses
  Dates of births and deaths
  Spelling
  Family relationships

MATUCK TRIBAL ROLL

new roll no.	base roll no.	Name	sex	Date of birth	Degree of Matuck blood	Total degree Indian blood	Authority for enrollment and date	Remarks: (Parents, base roll ancestry.....)
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

In order to handle these enrollment matters smoothly, tribal members must be encouraged to cooperate with enrollment personnel. Enrollment personnel can make their jobs easier by periodically reminding tribal members of the importance of a current tribal roll and of their responsibility to enroll themselves and their children. In addition, tribal members should be encouraged to keep the enrollment office informed of their address and name changes. Members can be encouraged to fulfill their enrollment obligations and the importance of a current roll can be stressed by placing notices in the tribal newspaper and other public places.

Chapter 9 fully describes the responsibilities of everyone involved in enrollment. The following illustration outlines the steps to follow from receiving an application and stamping it through the Committee's review and recommendation to the Council's resolution to accept or reject the applicant. The following six sections provide a checklist of procedures for enrollment personnel.

Handling Applications

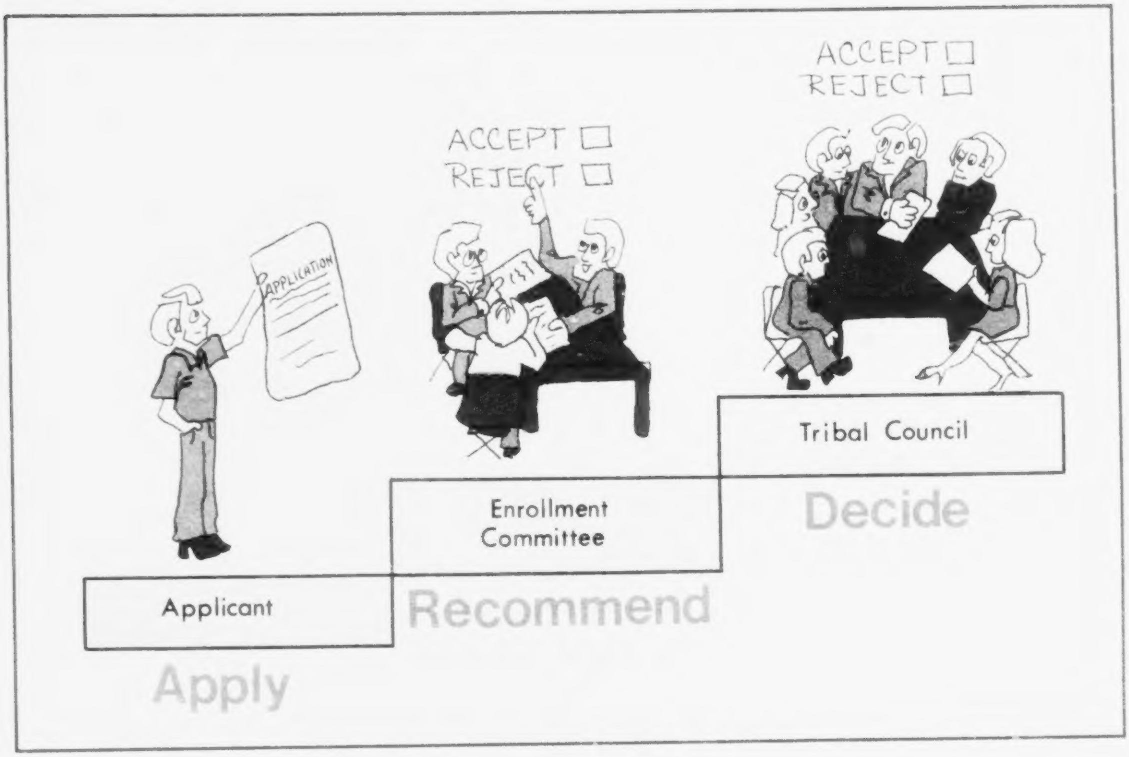
Process all applications as soon as possible. Steps in the process include:

- Stamp the application form with the date on which it is received and make a folder on the application and supporting documents.
- Make sure the application is complete. If not, notify the applicant of what is required.
- Separate complete applications into two stacks:

  Applicants descended from someone on the base roll who also meet other requirements.

  Applicants who do not meet requirements or do not have proper documentation.
- Present the separated applications to the Enrollment Committee.
- Enrollment Committee recommends acceptance or rejection to Council.

The Current Roll


ACCEPT ☐
REJECT ☐
ACCEPT ☐
REJECT ☐
APPLICATION
Tribal Council
Enrollment Committee
Decide
Applicant
Recommend
Apply

- Tribal Council decides to accept or reject applicants.
- Accepted applicants are notified in writing of their acceptance.
- Rejected applicants are notified in writing of the reason for their rejection and of their opportunity to appeal the Council decision.
- Council passes resolutions accepting or rejecting. Copies of the resolutions are included in each applicant's file.

Working with the Roll

When adding or removing names from the roll, remember:

- Names added to the roll after it is once brought up-to-date will *not* be in alphabetical order. These names will be added to the bottom of the roll and numbered consecutively.

- Use the name by which a person is known on the date of placing the name on the roll.
- List a married woman by the married name. The maiden or other name follows the first name, e.g., Seashell, Sally Sue Sands.
- Use a card file system to make the job simpler.
- Number the roll consecutively (1, 2, 3, 4 . . .).

  The first column of the roll should contain the new roll number.

  The second column of the roll should contain the base roll number or last roll number.
- Indicate whether the blood degree column means *tribal* blood or *Indian* blood. Top of one column should read "Degree of Matuck Tribal Blood," and the other, "Degree of Indian Blood."
- Show the complete year of birth for persons born before 1900 to avoid confusion: 2/24/1867 rather than 2/24/67.

Correcting the Roll

Maintain current information on members. When making changes in a person's records, always include who is the authorized person making the change, when, and based on what evidence. Include the evidence in the file. *Always* inform members of important changes in information.

See Chapter 14 for procedures to follow in changing blood degree.

Documenting Enrollment Actions

The daily activities of an enrollment office may seem routine and sometimes unimportant. Yet, every action in enrollment takes on meaning when a membership decision is protested in court.

Notes on a brief telephone conversation or a receipt showing that a person received the registered letter sent from the enrollment office can help defend the Tribal Council's action in court.

Responding to Requests for Information and Advice

Enrollment personnel can make the enrollment job easier by being helpful to all applicants. The staff should earn a reputation for fairness and friendliness to everyone. This will make difficult decisions easier to handle. Enrollment personnel should direct applicants to the sources of information and official documents they need.

Upholding Tribal Law

Enrollment personnel should make the fact that enrollment decisions are based on tribal law – not personal feelings – widely known.

Conclusion

Preparing a current tribal membership roll is a difficult procedure. Several chapters in this book provide information and recommendations on the many problems that arise in updating a roll. Because a current tribal roll is essential in tribal political and social life, as well as for making business decisions, every tribe needs a system to maintain a current roll.

CHAPTER 12

Rolls Used to Distribute Trust Assets

When tribal assets held in trust by the United States must be distributed, the Secretary of the Interior is responsible for deciding who has the right to share in these funds. The Secretary is not always bound by the tribe's own membership roll when these assets are distributed. The Secretary *is* bound by tribal and Federal law when drawing up a payment roll.

This chapter explains the trust relationship between tribes and the U.S. Government. It also discusses the use of a membership roll for payment purposes, and describes the appeals procedure that applicants rejected from a payment roll may use.

The Trust Relationship

In law, a "trust" is a certain financial and legal relationship between two people. One person, the "trustee," agrees to hold the legal title to someone else's property. The trustee also agrees to protect the other person's property from harm, and to manage it in a way that benefits the other person. (That is why the other person in the trust relationship is called the "beneficiary.") The trustee is legally restrained from selling the property or managing it in a way that is *not* beneficial to the other person.

This trust relationship exists between Indian tribes and the Federal Government. The United States holds title to Indian lands, and is legally obligated to manage those lands in a way that is profitable to the tribe. If the trustee – the Federal Government – does not act in the best interests of the tribe when fulfilling this responsibility, the tribe can take the case to court and may receive compensation.

Why is Tribal Property Held in Trust?

The trust relationship between tribes and the Government was established through treaties and congressional legislation. Occasionally an American Indian will say that the trust relationship takes away a tribe's right to control its own property. Or a non-Indian will say that the Federal Government should not be burdened with caring for tribal assets. But to abolish the trust relationship is the same thing as "termination" of tribes. It would mean that the United States had abandoned its legal and moral duty to protect and improve the lands, resources, and self-government of tribes.

The trust has its origins in the political relationship between tribes and the United States. Both political entities have defined themselves and their laws to one another.

When a tribe is to receive money that has come from the trust property, the Secretary has the authority to approve the list of people who are to share in the payment. The Secretary has this authority because of his legal responsibility to protect the trust assets. To fulfill this duty the Secretary must make sure that those who claim to act for the tribe have actually been given that authority by the tribe. The Secretary must also make sure that those who are asserted to be tribal members are, in fact, the group that the Federal Government agreed to regard as members. The Secretary's final responsibility is to see that the tribe is acting in accordance with the laws and constitution that the United States agreed to recognize as valid.

Which Tribal Assets Are "Trust Assets"?

Sometimes a tribe may earn income from a "local" source – money raised by the sale of goods, for example, or from holding a dance or fair. These local funds are not held in trust, and the tribal government may use the money however it wishes.

But a tribe's land *is* in the trust – as is any income that comes from the land, such as rent, or sale of resources. Judgment funds awarded by the Indian Claims Commission or the Court of Claims are also trust assets, since this money is awarded because of inadequate compensation for land or mismanagement of land.

Judgment Funds

When a tribe has won a claim against the Government, the court establishes the amount of money that will compensate for the damages done because of an illegal action of the Federal Government in the past. This money is called a "judgment fund." Congress then appropriates the amount that is needed to cover the award.

Procedures and requirements for distributing a judgment fund are now governed by the Act of October 19, 1973 (P.L. 93-134; 87 Stat. 466, 467, 478). These procedures, which are described below, can be found at 25 CFR 60.

After Congress has appropriated the judgment funds, the responsibility shifts to the Secretary. The Secretary, acting as trustee, has the authority to decide which group of people is entitled to share in those trust assets. The Bureau of Indian Affairs represents the Secretary in carrying out this responsibility.

The Bureau will ask these questions: Does the tribe as it exists today have the right to share in the award? Should all or part of the award go to the descendants of the tribe, because it no longer exists as a tribe? How should the funds be divided, if more than one group was damaged? In what manner should the money be distributed to members of the group (or groups) that deserve it?

The Bureau, after examining all the evidence, will consult with each tribe involved. The tribe and the Bureau will then draw up a program proposal for using the tribe's share of the award. The exact program proposal will vary with the size and needs of the tribe. But at least twenty percent of the award must go into "programming" – that is, building projects or establishing programs that will improve tribal living conditions or increase tribal income. The rest may be distributed *per capita* – that is, in equal shares of money paid directly to each member of the tribe. (The Act of October 19, 1973 requires that a minimum of twenty percent of the award go into programming.)

After the program proposals have been reviewed and each tribal government involved (plus any minority group within the tribes) has had a say at a hearing, the Secretary will present a report and a distribution plan to Congress.

If neither house in Congress explicitly objects to the plan within 60 days, the Secretary's proposal becomes effective. This plan now has the status of an act of Congress. Or sometimes in special circumstances an award distribution is governed directly by special legislation. The plan or law governing the distribution of the award will establish:

- How the award is to be divided among groups
- How the award is to be disposed of by each group
- The qualifications to be met by those who wish to share in the award.

The plan is then published in the *Federal Register.*

Using a Membership Roll for Trust Asset Payments

Sometimes all or part of an award is paid to the descendants of a tribe that no longer exists – or to the descendants of a tribe as it was constituted at some time in the past (usually as the tribe was constituted at the time the wrong occurred). If so, the payment list is called a *descendancy roll*, and the Secretary of the Interior writes regulations for the roll preparation.

Usually, however, the plan will direct that all or part of the award be paid to the members of the tribe as it exists today. If this is the case, the tribe's current membership roll will basically serve as the payment roll.

The tribe's current membership roll will need to be updated to the effective date of the judgment distribution act or plan. In order to do so, the tribe establishes procedures for preparing its current roll. The procedures are then approved by the Secretary. These procedures will establish:

- The date by which one must be eligible for enrolling on the payment roll (this will be the effective date of the act or plan)

- The deadline for filing applications
- Where to obtain application forms and how to apply
- The information that any person who is rejected from the payment roll has the right to appeal to the Secretary.

Review by the Secretary

When a payment is to be made to the tribe, the tribe will prepare its current membership roll (see Chapter 11) for submission to the Secretary. The Secretary is ultimately responsible for seeing that trust assets are properly distributed. Therefore, the Secretary will review and approve the roll prepared by the tribe to ensure that all those – and only those – with membership rights are included. The Secretary will add to the payment roll the names of any persons who meet the enrollment qualifications, were denied enrollment by the tribe, and appealed the tribe's decision to the Secretary. A person who does not appeal the tribe's decision waives any rights to further consideration.

If the membership roll lists people who do not have membership rights according to tribal law, these names will be "redlined" or removed from the payment roll. The roll may also include people who are legal members for tribal purposes only – such as dual enrollees who are enrolled with another tribe for the purpose of sharing its assets (see Chapter 14). The names of people who are enrolled for tribal purposes only will also be removed from the payment roll.

When the Secretary removes a name from the payment roll, this decision cannot be appealed. The Secretary always has the final word on enrollees for payment purposes.

Effect on Tribal Membership

The removal of someone's name from a payment roll does not necessarily affect his or her right to membership for tribal purposes. In certain cases – if a person has used false or erroneous information to gain membership, for example – the Bureau may point out to the tribe that the person does not, in fact, have membership rights. But all decisions on membership for tribal purposes only are basically up to the tribe.

Notice

When any applicant is rejected from a roll that is to be used for payment purposes, he or she must be given *notice* of the action. The notice should include:

- A clear statement of the reasons for rejection
- Advice that an appeal can be made to the Secretary
- Information about how and where an appeal may be filed, and *when* it must be filed.

Since notice is such a fundamental part of providing due process of law, both the tribe and the Bureau could rightly be sued by a person who did not receive notice of the decision about his or her eligibility for placement on the payment roll.

Mailing Requirements

Rejection notices must be sent by certified mail – return receipt requested. The notice will tell the person that he or she has 30 days after receiving the notice in which to file an appeal. The return receipt card on certified mail will prove, first of all, that the person actually received notice. The card will also tell the exact date on which the person received notice.

Without a return receipt card, it is impossible to establish when the person actually received notice. It must, in this case, be assumed that the person has filed an appeal within the allotted time. If a person received notice by regular mail, he or she might wait months or years to file an appeal. The tribe could not *prove* the person had received notice, or that he or she had gone past the deadline for filing appeals. Certified mail – return receipt requested – ensures that all appeals will be filed within a reasonable time after the decision.

Appeals for Enrollment to Share in Trust Assets

An appeal is an opportunity to have your case reviewed or heard at a higher administrative or judicial level. In the distribution of trust assets the Secretary makes the final decision about who may share in those assets. Therefore, any person rejected for enrollment to share in a payment has the right to appeal the decision to the Secretary.

Appeal Procedures

Some tribes have included in their enrollment ordinances procedures for handling appeals filed by rejected applicants for enrollment. If the tribal procedures provide for the Secretary of the Interior to make a final decision about eligibility for enrollment to share in the distribution of tribal assets, then the tribe's procedures will be followed. However, if the tribe's procedures do *not* provide for a final decision by the Secretary, the procedures outlined in 25 CFR 42 will be followed.

When a tribe considers appeal procedures to be included in an ordinance, it should be sure to include the following:

- a deadline for filing enrollment appeal
- procedures for handling appeals – such as who receives them, who reviews them and who makes the final decision regarding eligibility.
- a provision for final decision by the Secretary when a roll is being prepared for the distribution of trust assets.

All procedures should be established by a Council ordinance. The appeal procedures may be included as a part of the tribe's general enrollment ordinance, or established separately.

How an Appeal Should Be Filed

Since the Secretary of the Interior will ultimately decide the appeal, it should be addressed to him. Yet because the application, evidence, and other records about the appeal are in the tribal enrollment office preparing the roll, the appeal should be mailed to the office or official designated in the appeal procedures and the rejection notice.

An appeal must be in writing and should be supported by any evidence not already submitted that would establish the appellant's eligibility for enrollment. It should be received in the designated office on or before the deadline date. If not, it must be dismissed for being filed late.

If members of a family claim descent through the same ancestor and the entire family is rejected, one family member may file a single appeal. The appeal should name each person for whom it is filed. In addition, an appeal stating that it was on behalf of all of the rejected applicants descended from the ancestor would be considered a "class" appeal and is also acceptable. (This type of appeal is not advisable, however, if the names of the rejected applicants are not known.) Either type of appeal described above should include necessary documents to establish the eligibility of each person for whom the appeal is being filed. A single copy of general historical documents may be included.

Action on Appeals By Enrollment Committee (or Office Handling Mail)

The first and most important step is to stamp the receipt date on the appeal. It is this information, used with the date on the return receipt card, that enables you to determine whether the appeal was filed on time.

Assemble the entire file. The file will include the appeal and any additional evidence submitted with it, the application, correspondence, documents, or other papers relating to the application and original decision. This appeal record will then be forwarded to the first level of review with the Enrollment Committee's recommendation. (Since the file may eventually be sent to the Secretary of the Interior for a final decision on the appeal, it is advisable to keep a copy of the entire file.)

By the Tribal Council . . . When the Tribe is Preparing the Roll

The Tribal Council should carefully review the appeal and all available evidence. If the Council believes the appellant has proved his eligibility, it may reverse its original decision and enroll the appellant. If the Council still believes eligibility has not been established, the appeal is forwarded to the Secretary of the Interior for a final decision. The entire file, including the tribe's recommendation, will be sent to the local Agency.

The appellant should be notified in writing of the action taken on the appeal by the Tribal Council.

By the Agency . . . When the Tribe Is Preparing the Roll

The Agency staff will review the entire record, add any additional evidence that may be available, and send the entire record to the Area Office, with the Superintendent's recommendation. The Superintendent does not have authority to reverse the tribe's decision.

. . . When the Agency Is Preparing the Roll

If it is appropriate or practicable, the Superintendent will notify the tribe that an appeal has been filed. The tribe can review the appeal and make a recommendation. Usually there is a time limit placed on the tribal governing body to complete its review (25 CFR 42.6). If the roll is being prepared at the Area Office, the Area Director will take this action.

By the Area Office

The Area Office will examine the appeal and all supporting documents. If tribal procedures are being used, the Area Director will forward the appeal to the Secretary of the Interior – together with his recommendations and any additional evidence which may be available in his office.

When the procedures in 25 CFR 42 are being used, if the Area Director is satisfied the appellant has proved eligibility for enrollment, he may sustain the appeal and have the appellant's name added to the roll. If he believes the appellant's eligibility has *not* been established, he will forward the appeal to the Secretary (as described above) for a final determination.

By the Secretary of the Interior (Or a Representative)

When the appeal file reaches the Washington office of the Bureau of Indian Affairs, it and any other evidence submitted by the Superintendent or Area Director or located in the files of the National Archives will be thoroughly examined. The entire file will be sent to the Secretary with a recommendation for a final decision. Written notice of the decision will be sent to the applicant and copies will be furnished to the Area Office, Agency and the tribal governing body involved.

There are three possible decisions on an appeal:

- SUSTAINED: This means that the appellant has been found eligible for enrollment and his or her name should be added to the roll.

- DENIED: This means that the appeal has been turned down because the appellant does not meet the requirements for enrollment.

- DISMISSED: This means that the merits of the appeal will not even be considered because the appellant failed to meet procedural requirements for enrollment – such as filing the application or appeal within the allotted time.

Whenever an appeal is sustained, the entire appeal folder will be returned to the tribe for its files. If an appeal is denied or dismissed, the appeal file becomes a part of the official files. This is why it is advisable to keep a copy of the appeal file when it is forwarded.

Guidelines for Filing and Handling Appeals

1. *Deadline:* The appeal *must* be filed by the deadline. The deadline is usually 30 days after the rejected applicant receives his notice. (If you are using 25 CFR 42, note the different appeal periods

provided in Section 42.4.) All applicants are urged to appeal before the deadline – even if supporting documents must be submitted later.

The deadline for filing an appeal can be waived only by the Secretary of the Interior, if the deadline is established in his regulations; or by the Tribal Council, if the deadline was established in a tribal ordinance. Every rejected applicant is given the same amount of time in which to file an appeal. Waiving a deadline should be considered with extreme caution to insure that all rejected applicants are being treated fairly. Only in extreme cases – where applying the deadline would cause serious injustice to the appellant – will the Secretary consider waiving the deadline set in his regulations.

2. *In Writing:* The appeal must be in writing, although it need not be technical or formal. The Bureau has received letter that said little more than, "You people are wrong. I am too eligible for enrollment," and this has been accepted as a legitimate appeal.

3. *Time Extensions:* The appeal – if filed before the deadline – may ask for additional time in order to gather and prepare evidence. If the request for more time is reasonable, the official who receives the appeal may give the appellant more time in which to supply the needed documents.

4. *Evidence:* When forwarded for a decision, the appeal should include all available documents and correspondence relevant to an applicant's claimed eligibility. Documents should include:

- Application
- Birth certificate
- Family tree (sometimes on back of application)
- Proof of relationship, generation by generation, to ancestor on base roll
- Proof of blood degree.

Tribal Enrollment

As mentioned earlier, the body that made the original decision has authority to reverse itself and enroll the individual.

The Director of the Area Office represents the first level at which a rejection by another (lower) body can be reversed, and the appellant enrolled.

The Secretary is the next level at which a rejection may be reversed and the first level at which an appeal can be officially denied. (The Secretary has delegated to the Commissioner of Indian Affairs authority to act for him on enrollment appeals.)

Conclusion

Tribal membership means sharing and participation. If a tribe does not follow its laws when deciding membership, many members will be unable to participate fully in tribal life. They will be ineligible to share in trust assets or certain Federal programs. Tribal unity is protected by a membership roll that can readily be approved by the Secretary for payment purposes.

CHAPTER 13

Tribal Rolls and Automatic Data Processing

In February, 1974, Judge Boldt made a tough and controversial court decision. He affirmed certain off-reservation fishing rights that had been guaranteed by treaties in the 1850s, and fought for ever since then by the tribes in western Washington. Judge Boldt also established six conditions that were essential in enabling tribes to exercise those rights. Among these were the requirements that the tribes must have an approved membership roll, and that tribal members must carry an identification card. Without these requirements, the rights of tribal members could not be protected.

The past fifteen years have seen an almost constant strengthening of the legal rights of tribes. But as these rights strengthen, so does the necessity of having a current membership roll. Keeping the membership roll up-to-date can be a very simple procedure if the tribe uses Automatic Data Processing, or ADP, systems.

This chapter describes the type of assistance that ADP systems can offer to tribes. Procedures for obtaining use of the system are also outlined.

Using Automatic Data Processing for Enrollment

People turn to computers when a situation requires that a large volume of information be organized and maintained. Computers, of course, can never "know" or "learn" more than the information people give them. But they can do other things – reorganize that information, add to it, subtract from it, select certain parts of it – far more quickly and accurately than people can.

"Tribal Systems" is the name of the computerized information source in Albuquerque, New Mexico. Enrollment data needed by tribes is just one of many kinds of information that can be stored there for tribal use. The tribe should keep all enrollment documents on file at the reservation as well. But the use of the computer makes this information much easier to update, organize and store.

Keeping Membership Roll Current

Maintaining a current membership roll is made far easier by the use of ADP systems. For some tribes the manual method of roll preparation can take years. And each updating of the roll may represent a major job. A tribe that takes advantage of ADP can prepare its roll relatively quickly, and the roll can be updated very easily.

Each tribe that uses Tribal Systems has a code number, and all tribal members are listed under their tribe's number. Tribal enrollment personnel on the reservation keep the roll current by filling out special forms that will add or remove names from the computerized roll, or change other membership information.

Every time a member dies, becomes enrolled, or changes address, one of these forms is filled out. The forms are regularly sent to the ADP center, Tribal Systems. A "clean" list or printout of all current members will be mailed back at the tribe's request. Tribal membership can be listed by family, by base roll number, tribal identification number, or alphabetically.

Base Roll Corrections

The ADP system can also be used to correct the base roll. The tribe first encodes all information from the census (or other) roll into the computer. The computer is then instructed to *remove* certain names – all those with "NE," and so on. The tribe then uses the computer to *add* whatever names had been omitted from the census through error, and to correct any other mistakes. The computer will now print out a corrected base roll which is arranged alphabetically – or by family or identification number, according to instruction.

Preparing a Current Membership Roll

To produce a current membership roll, the information on the corrected base roll is first fed into the ADP system. A special form is then filled out for each new member and each death since the time the base roll was drawn up.

The basic information that will be listed for each member will include:

- *Name:* All of an individual's names – first name, last name, maiden name, alias, previous name – can be listed and properly identified.
- *Identification Number:* The tribal identification number, base roll number, or social security number can be used.
- *Family Number:* Each tribal family will be assigned a number, and the listing for each individual will include his or her family number. This programming aids the tribe in tracing ancestry quickly, and in knowing the exact number and size of tribal families.
- *Birthdate:* This information enables tribes to ask for a printout which lists only those tribal members in a specific age group – children of school age, or senior citizens, for example.
- *Sex:* This information gives the tribe accurate statistics on the number of male and female tribal members.
- *Blood Degree:* This information, of course, is vital to have on record. When coded into the computer it will make future membership decisions simpler.
- *Authority for Enrollment:* This information will reflect the article and section of the tribal constitution under which the enrollee qualified for membership.

- *Address:* Addresses of tribal members can be changed and kept current very easily. This programming will also enable tribal leaders to know how dispersed tribal members may be.

Restricted Access

The information stored in the computer can only be obtained by those who know the proper code, which is called a "password." One tribe cannot obtain personal information about the members of another. The computer codes protect all information from those who have no right to see it.

No confidential information will appear on the printout. Private information on adopted children or tribal family history, for example, will be coded in as confidential. No unauthorized person can have access to this information, because it can only be obtained by using the confidential code.

Historical File

The names of persons who have died do not disappear forever into the computer. These names are removed from the current membership roll and placed on a computerized historical file. The historical file will contain all pertinent information about deceased members and list the date of death.

The historical file enables tribes to keep excellent vital statistics. It also provides information that will be useful when a membership applicant claims descent from a deceased member. The printout may be in strict alphabetical order, or by date of death.

Other Uses for ADP Systems

Perhaps the key advantage of the ADP system is that it not only keeps all membership data current, but provides tribes with certain special statistics on membership. These statistics should contribute to good government.

Selective Lists of Members

Once tribes have established their basic membership, they will want or need to add other conditions to membership for certain activities. The ADP system can sort out which tribal members are eligible for what in a matter of seconds.

Some examples of times when this capacity may be needed are listed below.

The ADP will produce the appropriate list when tribal members must also:

- Be 18 years old to vote
- Reside on the reservation to share in a certain local fund
- Be of a certain blood degree to run for office
- Be a U.S. citizen to participate in a certain Federal program
- *Not* be enrolled in another tribe to share in a distribution of trust assets.

Tribal leaders will also be interested in the special ways that the ADP system can make governing easier and more effective. Some of these uses have already been suggested. Others are discussed below.

- *Voting:* The ADP system can produce a current list of all those eligible to vote – even by district, if the tribe has encoded this information.
- *Budgeting:* The system can be used to inform tribal officials how many tribal members are of school age; how many will be of school age in a few years; how many are senior citizens; and so forth.

- *I.D. Cards:* The ADP system can be adapted to provide identification cards to tribes that need or want them.

- *Mailing Labels:* If properly programmed, the ADP system can be used to make mailing labels that the tribe may want to use in communicating with all members or with certain groups of members.

- *Payments:* If a tribe has received a judgment fund it should by all means use the ADP system in preparing the payment roll, because payments can be made to members much sooner than if the roll is prepared manually. The payment roll, of course, can then be used as the tribal membership roll. The tribe may wish to add the names of members who are not eligible to share in a distribution of trust assets. These names should be coded in specially. They will then appear on each printout of the current membership roll, but will not appear the next time the tribe needs a payment roll.

Special Information

No personal information about tribal members will appear on the computerized membership roll. The Bureau Enrollment Office is only interested in information that pertains to membership criteria. They provide funds for tribal use of the ADP system because it makes the Bureau's job much easier when a payment must be made, for example.

The tribe itself, though, may want to have access to some special information about its members. For certain projects or emergencies the tribe may want a list of members who share a certain occupation, skill, or talent. The computer card provides a space for this special information. Here are examples of information, in addition to the basic data, that the tribe may want to code in to the ADP system:

- Tribal members who do bead work

- Tribal members who have been trained as firefighters

- Tribal members who can speak a certain language
- Tribal members with medical training.

As long as the tribe wants this kind of information, and the members are willing to provide it, it can be coded into the computer. But the computer will only "know" the facts that the tribe has coded in.

Obtaining ADP Training and Access

Obtaining Access

A tribe that is interested in using the ADP system should first pass a resolution that states the desire to have access to the system. This resolution, or some form of *written request*, should be sent to the Area Office that serves the tribe. The Area Office will explain the use of the system fully.

Ask the Area Office about all the listings that are available to the tribe. Explain your needs and interests – a payment roll, I.D. cards, a voting list – and how often you think you will desire a certain listing (such as a current membership roll or a voting list). Since the Area Office pays the costs of a tribe's use of the ADP system, the tribe must get clearance from them.

The Area Office will then submit the tribe's request to the Bureau's headquarters in Washington. The central office will regulate and schedule all requests. Since many tribes have recently shown an interest in Automatic Data Processing, not all rolls can be computerized immediately.

The central office of the Bureau will establish priority among the tribes that are waiting to get on the system. A tribe that has just been affected by a court order – such as the Boldt decision – or a tribe that needs a payment roll prepared will have first priority in using the ADP system. But all tribes who so desire should be able to make use of the system eventually.

ADP Training

Nobody who actually uses computers thinks of them as magic. A computer, after all, is a machine that responds to instructions – just as a bicycle or a car will do. It takes time, knowledge, and real effort to build into the machine the capacity to respond to certain requests.

The basic "secret" of a computer is that a *number* is assigned to all characteristics or facts. Most of these are characteristics we do not normally think of in numerical terms – such as the ability to fight fires, or the fact that a person's parents belonged to different tribes. But once this wide variety of facts has been assigned the proper numbers or "code," they become available to the computer, which organizes them and makes them available to us.

Each code that is used must therefore be learned and encoded with care. Computer programming requires special training and a great deal of meticulous work. This is necessary to ensure that the computer will be programmed correctly, and that it will have as much information and capability as the tribe desires.

Each Bureau Area Office has access to an audio-visual training program and instructional manual that should be used by any tribe wishing to take advantage of the ADP system. ADP specialists from the Bureau are also willing to go out to the tribe and train its enrollment personnel in the system's use.

Once the Bureau has provided the training, the tribe can then use the ADP system as it likes. All tribes will probably wish to see the audio-visual program just to learn more about how the system works, and how the tribe can make use of it.

Since using the ADP requires knowledge of very technical material and procedures, it is best to get training – or a training refresher – immediately before the computer is actually programmed. All the facts will then be fresh in mind.

Tribal Rolls and ADP

The Bureau's ADP training book is available to any tribe that requests it. This manual, however, should not be used without seeing the audio-visual program also. The program will explain things that the manual itself cannot cover.

Conclusion

John Collier had a special dream for North American tribes:

"It is a wild if alluring fantasy that they might live on, that they might use the devices of modern economic life, and pragmatically take over the concepts of modern science, and yet keep that strange past of theirs . . ."

But John Collier was more than a dreamer. The programs of his Indian Reorganization Act, combined with the inner strength of tribes, transformed his fantasy into law and fact.

Tribes today do live on. The ADP is a newer tool that can contribute to their continued strength.

TRIBAL SYSTEMS
Per Capita/Membership Roll System

ADD

3 TRIBE
6 INDIVIDUAL'S IDENT NO
15 0 0
17 FAMILY NO

A1 80
LAST NAME

50 FIRST - MIDDLE NAME

76 JR, SR, I, II, III, IV, V

79 RELATION TO HEAD OF FAMILY

01-HEAD
02-HUSBAND
03-WIFE
04-SON
05-DAU
06-G/SON
07-G/DAU
08-G-G/SON
09-G-G/DAU
10-G-G-G/SON
11-G-G-G/DAU
12-NEPHEW
13-NIECE
14-G/NEPHEW
15-G/NIECE
16-G-G/NEPHEW
17-G-G/NIECE
18-S/SON
19-S/DAU
20-WARD
21-ADOPTED CHILD
22-BROTHER
23-SISTER
24-MINOR

B3
24 C10
C/O NAME OR ADDRESS

A2 24
STREET ADDRESS

50 CITY
73 STATE
75 ZIP CODE
80 ON/OFF RESERVATION 1-ON 2-OFF

A3
31 FATHER'S IDENT NO
40 1-NON MEMBER/NON INDIAN
2-NON MEMBER/INDIAN
41 MOTHER'S IDENT NO
50 1-NON MEMBER/NON-INDIAN
2-NON MEMBER/INDIAN

51 SEX
52 MO DAY YEAR BIRTHDATE
60 MO DAY YEAR DECEASED
66 AUTHORITY FOR ENROLLMENT
74 MO DAY YEAR ENROLLMENT DATE

A4
22 1-NON MEMBER/NON-INDIAN
2-NON MEMBER/INDIAN

BLOOD DEGREES
23 TRIBE 1
26 NUM / DENOM
33 TRIBE 2
36 NUM / DENOM
43 TRIBE 3
46 NUM / DENOM
53 TRIBE 4
56 NUM / DENOM
63 OTHER
66 NUM / DENOM
TOTAL INDIAN BLOOD
73 NUM / DENOM

A5 22
BASIC ROLL NO
41 RELATION TO PERSON WITH BASIC ROLL NO

01 SELF
02 SON
03 DAU
04 G SON
05 G DAU
06 G G SON
07 G G DAU
08 G G G SON
09 G G G DAU
10 G G G G SON
11 G G G G DAU

31 ALLOTMENT NO
43 RELATION TO PERSON WITH ALLOTMENT NO

E1
UNIQUE TRIBE INFORMATION

22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40

DC-87 (REVISED JAN. 1973)

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TRIBAL SYSTEMS
NOPS-600-403B                                                                        DATE RUN 3/28/77
TRIBE:  MATUCK                                                                       AS OF 3/28/77

                                               PER CAPITA/MEMBERSHIP
                                                ALPHABETICAL LISTING

  IDENT NO       FAM NO       NAME (LAST/FIRST/MIDDLE/SUFFIX)          TYPE NAME        VOUCHER PAGE

450/38/1802      00001        ALGERNON  FRED E.                        CURRENT               1
450/89/1701      00002        BRANCA    PAUL FRANCIS  JR               CURRENT               1
*00000017        00002        BRANCA    SUSANNA JUNE                   CURRENT               1
450/95/1923      00070        CRANE     MARIA G.                       CURRENT               1
*00000011        00070        CRANE     SAMUEL JOSEPH                  CURRENT               1
450/43/1992      00003        CRANE     WILLIAM S.                     CURRENT               1
*00000009        00004        CROWE     CASEY T.                       CURRENT               2
*00000007        00004        CROWE     DONALD JOHN                    CURRENT               2
450/55/6821      00005        CROWE     JANET LORNE                    CURRENT               2
450/42/7883      00004        CROWE     MARY EDDY                      CURRENT               2
*00000008        00004        CROWE     PATRICIA THOMAS                CURRENT               2
450/95/1025      00005        CROWE     REGINALD JAMES                 CURRENT               2
450/93/2537      00008        DURNEY    BARBARA H.                     CURRENT               2
*00000019        00008        DURNEY    MARCUS G.                      CURRENT               2
450/34/1706      00007        DURNEY    NEAL CRUSER                    CURRENT               2
450/93/2279      00008        DURNEY    OSCAR SARGENT                  CURRENT               2
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TRIBAL SYSTEMS
NOPS-600-403B                                                                                           DATE RUN 3/28/77
TRIBE:  MATUCK                                                                                          AS OF 03/28/77

                                                   PER CAPITA MEMBERSHIP

                                              FAMILY LISTING - PAYMENT VOUCHER
                                                                                    **********PER CAPITA***********
IDENT NO.                                         BIRTHDATE               ON/OFF                              OTHER OR
FAM NO.                                           DECEASED    SEX  RELA   RESER   INDIV    IIM     TRUST  REMARKS

450/38/1802  ALGERNON         FRED E.            04/01/1886   M   HEAD   ON      3.77
  00001      BOX 601
             CACTUS FLOWER
             AZ    56204

450/79/2763  BRANCA           PAUL FRANCIS       05/13/1945   M   HEAD   ON      9.35
  00002      BOX 23
             CACTUS FLOWER
             AZ    56204

*00000007    BRANCA           SUSANNA JUNE       06/12/1971   F   DAU    ON

450/95/1923  CRANE            MARIA G.           08/17/1951   F   HEAD   OFF     10.46
  00070      712 LINCOLN PL
             PHOENIX
             AZ    85023

*00000011    CRANE            SAMUEL JOSEPH      08/17/1969   M   SON    OFF

450/43/1992  CRANE            WILLIAM S.         02/18/1940   M   HEAD   ON      3.77
  00003      BOX 122
             CACTUS FLOWER
             AZ    56204

450/42/7883  CROWE            MARY EDDY          10/27/1900   F   HEAD   ON      15.08
  00004      BOX 238
             CACTUS FLOWER
             AZ    56204

*00000009    CROWE            CASEY T.           11/17/1932   M   SON    OFF

*00000007    CROWE            DONALD JOHN        01/13/1921   M   SON    ON

*00000008    CROWE            PATRICIA THOMAS    09/21/1925   F   DAU    OFF
```

TRIBAL SYSTEMS
NOPS-600-403B
TRIBE: MATUCK

PER CAPITA/MEMBERSHIP
NUMERIC LISTING - HISTORICAL FILE

DATE RUN 03/28/77
AS OF 03/28/77

IDENT-NO	FAM-NO	TYPE NAME		SEX	BIRTHDATE DECEASED	TRIBE NO	BLOOD DEGREE	*ALLOT-NO BASE-ROLL RELATION	AUTH FOR ENROLL DATE	FATHER-ID MOTHER-ID
539-76-9262	00235	FALCON	FRANKLIN	M	11/16/1945	801 TOT	4/4 4/4	193500067 SON	SEC 1 B 12/16/72	 *00000212
539-78-9875	00277	SMITH	SUZANNE	F	08/25/1945	801 608 TOT	1/2 1/2 4/4	1935-0335 DAU	SEC 1 B 10/09/72	 526329816
539-79-6684	00380	ELDORADO	GEORGE	M	12/27/1900	801 TOT	4/4 4/4	193500005 SELF	SEC 1 A 01/01/35	528227207
539-79-7559	00053	JOHNSON	JANE	F	08/24/1945	801 TOT	4/4 4/4	1935-0448 DAU	SEC 1 B 09/10/72	528036757
539-80-4216	00123	RUNSFAST	RACHEL	F	05/11/1872	801 TOT	4/4 4/4	1935-0240 SELF	SEC 1 A 12/16/72	528163396
539-80-4885	00069	LAFFERTY	ELOISE	F	08/23/1948	801 902 TOT	1/2 1/2 4/4	1935-0001 DAU	SEC 1 B 12/16/72	526184242
539-80-7825	00015	KALUA	KAREN	F	01/14/1948	801 806 TOT	3/4 1/4 4/4	1935-0054 DAU	SEC 1 B 10/09/72	527084836
539-80-8834	00055	GARCIA	RAFAEL	M	11/28/1945	801 TOT	4/4 4/4	1935-0160 DAU	SEC 1 B 12/16/72	526124076
539-82-7688	00223	SMITH	PAUL	M	09/12/1949	801 TOT	4/4 4/4	1935-0349 SON	SEC 1 B 03/31/73	527071721 *00000133
539-82-7686	00258	HORSE	EDITH MAE	F	05/19/1947	801 803 TOT	1/2 1/2 4/4	ADOPTION SELF	SEC 2 11/13/73	 NON-MEMBER

CHAPTER 14

Common Enrollment Questions

This chapter addresses the questions that come up in everyday enrollment operations. Although tribes have the right to determine their own membership, the tribe should know the legal procedures for making membership decisions and basic principles that govern enrollment situations.

Many of the statements made in this chapter come from American and British law. They represent the wisdom of several hundred years of legal judgments and methods. Many tribal membership cases have been heard in Federal courts. The decisions in these cases are part of the "best ways" to handle enrollment. Other statements in this chapter come from the long experience of the Bureau of Indian Affairs in assisting tribes as they apply their membership requirements. The following recommendations will provide some answers to common questions.

1. Who Has the Burden of Proving the Right to Tribal Membership?

The phrase "burden of proof" means (a) the job of persuading someone that something is true and (b) the job of producing evidence. In enrollment, *the legal burden of proof is on the person who applies for membership.* For example, if a man cannot find his birth certificate or cannot prove that he has the proper degree of Indian blood, it is his problem. He must prove to the enrollment decision-makers that he has the right to membership. The enrollment personnel are *not legally responsible* for finding proof of why the man should or should not be a member.

In other words, if a man says, "I am a member," the tribe says: "Prove it." The man might say to the tribe: "You prove I'm not." The tribe says: "We don't have to prove anything. The burden of proof is on you."

2. Should Enrollment Personnel Ignore Applicants Who Ask for Help?

No. There are moral and practical factors in the area of evidence. For example, some people are confused by public officials and don't know about certified records such as birth and death certificates. Some people may not be able to read or write. Public servants who decide the right to tribal membership have a *moral responsibility* to help people find the proof they need. In some cases, enrollment personnel may help people discover that either there is no proof or that the proof shows that the applicant does not have the right to membership. Regardless of the results of helping with the search for evidence, enrollment personnel should try to be kind and fair to everyone who asks for assistance.

3. What Does the Term "Illegitimate Child" Mean?

A child is called illegitimate when the mother is not legally married to the father.

4. What Is a Legal Marriage?

A marriage is considered legal when (1) a couple is recognized by a state or tribe as legally married, or (2) a couple has lived together for a certain time and the state recognizes the couple as married (common law marriage).

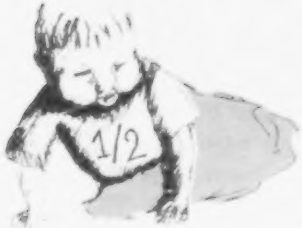
Cases where tribes perform marriages according to tribal custom and there are records that such marriages occurred may be considered legal marriages for tribal purposes if the tribe wants them to be. Tribes should establish in the enrollment ordinance what is acceptable as a legal marriage.

5. What Is the Blood Degree of a Child Born to a Single Mother?

A child born to a single mother ("illegitimate child") can legally claim only 1/2 of the mother's Indian blood degree and *none* of the father's Indian blood. The illegitimate child can only claim the father's Indian blood if there is *legal* proof of who the father is (see Chapter 10 for acceptable legal proof of paternity). For example, if a full blood Matuck mother has a child, and there is no legal evidence of the father's identity, the child is 1/2 Matuck blood. (See the illustration on page 129.)

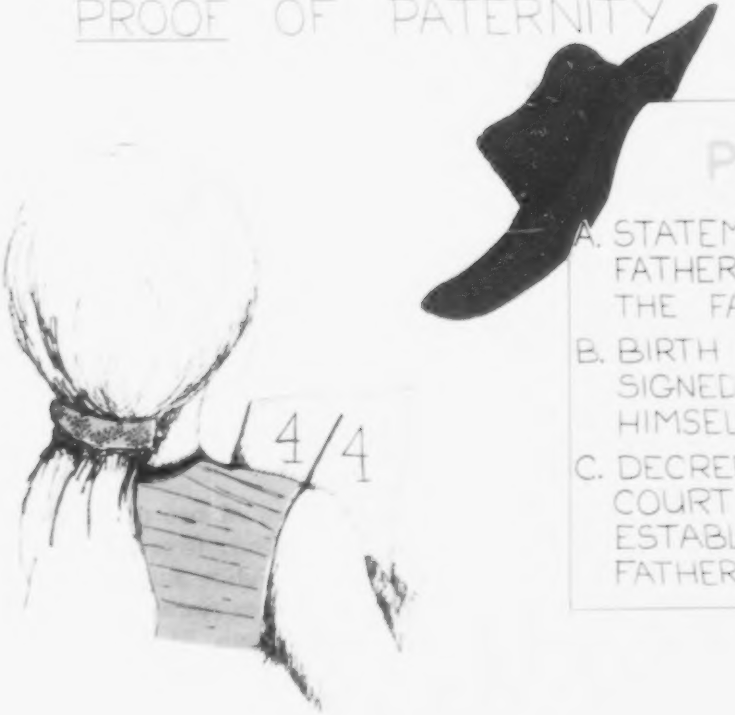
WHAT IS THE BLOOD DEGREE OF A CHILD OF A SINGLE MOTHER?

A CHILD CAN CLAIM ONLY 1/2 OF THE MOTHER'S INDIAN BLOOD



unless...

THERE IS LEGALLY ACCEPTABLE PROOF OF PATERNITY



PROOF

A. STATEMENT SIGNED BY FATHER SAYING HE IS THE FATHER

B. BIRTH CERTIFICATE SIGNED BY THE FATHER HIMSELF

C. DECREE ISSUED BY A COURT OF LAW ESTABLISHING WHO THE FATHER IS

6. Why Is a Mother's Statement of Who the Father Is Not Acceptable as Proof?

The unwed mother's statement about who fathered her child is not legally acceptable because she could have had the child by any man, and therefore, the father could be anybody. This principle has been recognized by courts since the beginning of written law, because, traditionally, a child has rights to a father's property, support and Indian blood degree. But this is true only when it is legally clear who the father is. For example, a mother could name a rich, famous man as the father so that her child could inherit his money if the court accepted her claim as legal proof. Or, a non-Indian mother who wanted to enroll her child in an Indian tribe could claim that a full-blood member is the father. She might even write his name on the birth certificate. The child could not legally claim this man's blood degree, property, or support without proof that this man is his father.

7. What Is Legal Proof of Paternity (Fatherhood)?

If the child is born outside of marriage, there are three acceptable legal proofs of who the father is:

- A statement signed by the father saying that he is the father. If the father *himself* signs the birth certificate, this serves the same purpose.
- A decree issued by a court of law establishing who the father is.
- The findings of a probate examiner.

If a single mother has one of these three legal papers, then the child can claim the Indian blood of the father as well as that of the mother.

8. What Is Dual Enrollment?

Dual enrollment means being a member of two tribes at the same time. Many constitutions prohibit members from being enrolled in another tribe. If the constitution prohibits dual enrollment, the person who has membership in two tribes can be required to show evidence of relinquishment of membership. The tribe should not require a member to relinquish membership in one tribe before being officially enrolled in the other.

If tribal law does not *specifically prohibit* dual enrollment, a member may legally belong to another tribe. In other words, if the tribal constitution does not even mention dual enrollment, it is permissible.

9. What Are the Different Types of Dual Enrollment Prohibitions?

Any law prohibiting dual enrollment should define the word "enrolled" carefully. The phrase "*persons enrolled* in another tribe" is subject to interpretation.

Specific types of dual enrollment prohibitions are listed below. Tribal law may deny membership to:

- Persons whose names appear as enrollees on the final roll of a terminated tribe.
- Persons who are currently enrolled in another tribe.
- Persons who have ever been enrolled with another tribe – even if the membership has been relinquished. This is a very strict prohibition.
- Persons who ever shared as enrolled members in an asset distribution to another tribe. This prohibition is more lenient.

It is up to the individual to decide which of two tribes to belong to, if dual enrollment is prohibited. But if an individual has shared in assets as a member of one tribe, some tribal constitutions may regard him or her as having made a choice to belong to that tribe. When such a constitutional provision exists, he or she cannot later relinquish that membership (in the tribe whose assets were shared in) and enroll in the second tribe.

But the tribe should consider whether a person who shared in assets of another tribe *as a minor* should be denied membership. It may seem unfair to deny membership to an adult applicant who received an asset payment in another tribe as a small child. One tribe has amended its constitution to say that any person eligible for membership "who as a minor accepted monetary benefit as a member of another tribe . . . shall have the option of relinquishing membership in the other tribe not later than one year after becoming an adult." The person may then be accepted for membership.

10. How Can Enrollment Personnel Identify A Dual Enrollee?

If dual enrollment is prohibited by tribal law, the tribe should make an active effort to identify possible cases of dual enrollment. An aggressive approach is called for, first, to prevent a violation of tribal law. The person may not even realize that he or she is a dual enrollee. But any time a law is ignored, or lazily enforced, the entire legal system of the tribe is weakened.

Second, if a person is enrolled in two tribes at once, and neither tribe is aware of it, that person could claim a share in both tribes' assets. This, as was mentioned, conflicts with Federal regulations.

Here are some keys that will help the enrollment clerk locate a dual enrollee:

- Does the person's membership application show that one parent is enrolled with another tribe, or possesses blood of another tribe? If so, it is possible that the applicant meets membership requirements in the other tribe as well. *Check* with the other tribe to make sure that the applicant is not enrolled. Obtain a written answer.

- Does the application show that any other members of the applicant's family – brothers and sisters, or children – are enrolled in another tribe? Again, check with the other tribe to make certain.

- Is there any indication of past enrollment on the application? If so, require proof of relinquishment from the applicant.

11. How Is Tribal Membership Different from Enrollment on a Descendancy Roll?

Tribal membership is often confused with enrollment on a descendancy payment roll, though the two are really very different.

A "descendancy roll" is prepared in order to distribute the award when a tribe has won a claim against the Federal Government. The congressional act governing the award's distribution will also establish the qualifications of descendants who are eligible to share in the award. The descendancy group that is entitled to share in the award does not always represent the tribe's current members.

For example, a woman who is a member of tribe A may have had a great-great-grandfather who was a member of tribe B. If tribe B receives a judgment, the woman of tribe A *may* meet the requirements of the descendancy group that Congress has designated to share in the award. If she enrolls on the descendancy payment roll, this does not mean she is enrolling as a *member* of tribe B. She is merely enrolling to share in that particular payment, and her membership in tribe A is not affected in any way.

12. What If a Child Qualifies for Membership in Two Tribes, and Dual Enrollment Is Prohibited?

In the case of a minor or incompetent person who is qualified for membership in two tribes, the decision of which tribe to enroll in should be made by the parent, guardian, or other person acting for him or her. Written relinquishment of membership must then be filed with the tribal enrollment office.

Tribes may want to consider whether relinquishment for a minor is final or not. A provision in the enrollment ordinance might state that persons who were minors at the time relinquishment was filed may decide for themselves which tribe to enroll in when they reach the age of majority.

13. What Is Abandonment of Tribal Membership?

Some tribal constitutions state that a person who leaves the reservation and stays away for a certain number of years shall no longer be a tribal member unless he or she wants to continue to be a member. Tribes who have this requirement should establish procedures to notify persons who are about to be removed from the tribal roll and give them an opportunity to state why they should not be removed from the roll. In such a case, the burden of proving abandonment is on the tribe.

14. How Should the Tribe Notify Someone Who Is About to Be Removed from the Roll Because of Abandonment?

If the tribal constitution provides for removing persons from the roll who have abandoned their tribal membership, then the tribe should establish how to notify the person and how to provide the person with a hearing. These procedures will ensure that the tribe is providing due process for its members.

15. What Are Proper Procedures for Removing from the Roll Someone Who Has Abandoned Membership?

A tribe might establish these procedures in the enrollment ordinance:

- Notify the person subject to removal from the roll by certified mail, return receipt requested. The group within the tribe that has the authority to handle such cases should send a letter stating that:

  The person is subject to removal action;

  The member can request and appear at a hearing to show reasons why he or she should not be removed from the roll; and

  The member has 30 days from the time the letter is received to request and appear at the hearing.

- Send the notice to the last known address. Also contact the family members who may know where the person is if the tribe is unsure. In addition, publish the notice in local newspapers and in newspapers where the person was last known to live.

- Keep a record of what is said at the hearing. as well as all correspondence.
- If the hearing results in a decision to remove the person from the roll, adopt a resolution stating:

  All the facts on which the decision was made;

  The date when the removal becomes effective; and

  The individual has been notified of the decision and its effective date.
- If no hearing is requested within the 30 days, adopt a resolution formally removing the person's name from the roll.

16. What Is Relinquishment?

Relinquishment of tribal membership means officially giving up the right to membership in the tribe. A person relinquishes membership by submitting a written statement to the tribal governing body or whatever group has authority to accept the relinquishment.

Tribes may develop a form letter to use to relinquish membership. Because relinquishment is an individual's choice, however, tribes can not *require* the use of a form. The form may state any conditions the tribe wants to impose on the person relinquishing. For example, if the tribe wants the relinquishment to be *final*, the form should reflect this. If the tribe wants minors whose parents or guardians relinquish for them to be able to reapply for enrollment in the tribe when they reach the age of majority, the form should reflect this. Sample relinquishment forms are in Appendix B.

17. How Is Relinquishment Different from Abandonment?

In relinquishment, a person requests in writing that his or her name be removed from the roll. In abandonment, a person leaves the tribe and does not continue a relationship with the tribe. The tribe then takes action to remove the person's name from the roll.

18. What Is Disenrollment?

Disenrollment is the official action taken by a tribe to remove an individual's name from the membership roll. Since involuntary loss of membership is such a serious matter, the grounds for disenrollment should be stated very definitely in tribal law – preferably in the constitution. The burden of proving grounds for disenrollment is always on the tribe.

19. What Are Reasons for Disenrollment?

Reasons for disenrollment should be stated in the enrollment ordinance. The reasons might include:

- The tribal constitution prohibits dual enrollment and a member is found to be enrolled in another tribe. If he or she refuses to relinquish membership in the other tribe after being notified, the tribe has grounds for disenrollment.
- The tribal constitution provides that anyone who lives away from the reservation for a specified number of years will have officially abandoned the tribe and be subject to disenrollment.
- A person is found to have been enrolled on the basis of false information or error.

20. What Are the Procedures for Disenrollment?

The procedures for disenrollment should be established in an ordinance. These procedures must provide due process of law because they take away the right to tribal membership. A sample notice of a proposed disenrollment action appears in Appendix B.

Notice. Send written notice of why a person is going to be disenrolled by certified mail, return receipt requested. The notice should inform the person of the right to explain in a hearing why he or she should not be disenrolled. The notice should give the person a specific time within which to ask for a hearing.

Hearing. Before disenrolling a member, the tribe should give the person the right to a hearing. In the hearing, the person states why he or she should not lose the right to membership.

Appeal. After the hearing, if the tribe decides to disenroll, then the person should be given the opportunity to appeal this decision in a tribal court or other official tribal body.

Official Disenrollment. If the final decision is to disenroll a member, then the tribal governing body should pass a resolution on the person's official disenrollment effective as of a specific date. The individual who is disenrolled should receive a certified letter stating that he or she is no longer a member of the tribe as of that date.

Record Keeping. Accurate records should be kept of the disenrollment action, from beginning to end.

Approval from the Bureau. Approval of the disenrollment action must be obtained from the Bureau.

21. Why Does a Disenrollment Action Require Bureau Approval?

Disenrollment requires Bureau approval because it affects a person's right to share in the tribal estate for which the Bureau is responsible.

22. Do Children Adopted By Members Have the Right to Tribal Membership?

If the tribal constitution or ordinance restricts membership to "children *born* of members" or "*natural* children of members," this wording clearly excludes adopted children from membership. An adopted child may then obtain tribal membership only through adoption by the tribe.

If the membership provision simply restricts membership to "*children* of members," the wording is less clear. In general, though, the phrase by itself cannot be interpreted as including adopted children. Unless tribal law *specifically provides* for the enrollment of children adopted by tribal members, children must acquire membership through their natural parents. Or they might also become members through adoption by the tribe.

The tribe may decide to interpret the phrase "children of members" in a way that *includes* adopted children of members. If so, the tribe must state in an ordinance or a constitutional provision that the word "children" includes the adopted children of members. These children, however, will also need to meet any Indian or tribal blood degree requirements. (If not, once again, the child might obtain membership through adoption by the tribe.)

23. Does a Child Who Was Born to a Member and Then Adopted Out of the Tribe Lose the Right to Tribal Membership?

When natural children of tribal members are adopted, these children have the basic right to enroll in the tribe of the natural parents.

However, there are several conditions that can prevent the enrollment. First, the tribal laws may specifically deny the rights of a child adopted out of the tribe to return and enroll for membership. Second, the tribal membership criteria may require that a child be enrolled within a specific time from the date of birth. If the child was not enrolled within that time period, he or she could only obtain membership through adoption by the tribe.

And finally, there may be practical difficulties in the way. The child must be able to *prove* that he or she meets the blood degree and descendancy requirements of the tribe. This requires identifying the natural parents. Often this information will be unavailable to the child or the people who adopted the child. (For a child adopted after 1978, though, many of these difficulties have been removed by new legislation. See Question #26.)

24. Where Should an Adopted Person Go to Obtain Records of Parentage in Order to Prove His or Her Right to Membership?

- Adoption or welfare agency

- Court where adoption was handled

- Adoption order itself may contain information on parentage.

25. How Can the Tribe Protect Members' Privacy While Still Allowing a Child Who Was Taken Away from the Tribe to Prove That He or She Is the Child of a Member?

Tribes with this problem can protect members' privacy in two ways:

- If the person can prove that he or she is the child of a member and meets other requirements, the tribe can safeguard the parents' privacy by adopting the person into tribal membership. By adopting, the tribe does not have to indicate the parents' names on the roll.
- To establish the adopted person's right to membership, the mother or father must be discovered. One or both parents may want their child's existence kept secret. To protect the parents' privacy, the tribe can ask an outsider to examine the records and swear that the record shows the person is the child of a member. The roll would then show the outsider's affidavit as authority for enrollment instead of the parents' identification number.

26. What Impact Does the Indian Child Welfare Act Have on the Enrollment of Adopted Indian Children?

In the fall of 1978, Congress passed the Indian Child Welfare Act (P.L. 95-608). This legislation provides for many reforms that Indian people have sought for years.

One section of the act has real significance for the enrollment of adopted Indian children. The act provides that in all future adoptions of Indian children, the court handling the adoption will provide the Secretary of the Interior with:

- a copy of the adoption decree
- the name and tribal affiliation of the child

- the names and addresses of the natural parents
- the names and addresses of the adoptive parents
- the name of any agency maintaining files relating to the adoption.

The Secretary is given responsibility to maintain the absolute confidentiality of this information.

In the future, an adopted Indian child over 18, the adoptive parents, or a tribe may request information from the Secretary on whether the child is eligible for enrollment. The Secretary will provide the information necessary to determine the child's membership eligibility. Whenever the natural parents request anonymity, the Secretary will simply certify that the child is or is not eligible for enrollment.

The identity of the natural parents will not be disclosed. The tribe can then use the Secretary's certification as authority for enrollment (in place of the parents' identification numbers).

These new measures should clear up many problems that have, in the past, prevented the enrollment of children adopted out of the tribe.

27. When the Tribal Constitution Says That Members Must Have "Indian Blood," Can This Mean the Blood of a Specific Tribe?

If the tribe wants the constitution to specify *tribal* blood instead of Indian blood, it should amend the constitution to impose this stricter requirement. However, the tribe can interpret its own constitution, and the tribal court system has the responsibility for interpreting tribal law. If a tribe rejects someone because he does not meet the *tribal* blood requirement when the constitution says Indian blood, the applicant can appeal the decision to the tribal organization authorized to hear appeals. If the applicant is unsatisfied with this decision, he can take his case to Federal court.

28. What Blood Degree Corrections Can the Tribe Make Without Bureau Approval?

The tribe does not have to get Bureau approval when making these corrections:

- Correction of errors in adding or dividing fractions *if the parents' Indian blood degrees are also on the record.* For example, Henry's Indian blood degree is shown as 1/2 Indian. His mother's Indian blood is 3/4 and his father's is 5/8.

  > Add the parents' Indian blood degrees together (3/4 + 5/8 = 6/8 + 5/8 = 11/8) and divide by 2 to get Henry's Indian blood degree (11/8 ÷ 2 = 11/8 x 1/2 = 11/16). Henry's record can now be corrected to read 11/16.

- Correction of errors in *tribal* blood degree, *if the parents' tribal blood degrees are shown on the record.* For example, Lee's tribal blood degree is shown as 7/16 Matuck on the Matuck tribal roll. His mother's tribal blood degree is 3/4 Matuck and 1/4 Salinowah. His father's tribal blood degree is 1/4 Matuck and 3/4 Salinowah.

  > To determine Lee's correct Matuck tribal blood degree, add his parents' Matuck blood degrees together (3/4 + 1/4 = 4/4) and divide by 2 (4/4 ÷ 2 = 4/4 x 1/2 = 4/8 = 1/2). Lee's correct Matuck blood degree is 1/2.

29. How Are the Blood Degree Corrections of #28 Made Official?

The correction of blood degree because of mathematical error is very simple. Here are the steps to follow:

- The descendant or enrollment worker who notices the error should call it to the attention of tribal officials who have authority over membership.

INDIAN OR TRIBAL BLOOD DEGREE CORRECTIONS

No Bureau approval required for errors apparent on the record

NAME	MATUCK BLOOD DEGREE	TOTAL INDIAN BLOOD DEGREE
Sand, Sam (FATHER)	4/4	4/4
Sand, Sue (MOTHER)	1/4	3/4
Sand, Billy (THE KID)	~~3/4~~ 5/8	~~9/16~~ 7/8

A

PASS A RESOLUTION EXPLAINING THE REASON FOR MAKING THE CORRECTION

B

NOTIFY THE BUREAU BY SENDING A COPY OF THE RESOLUTION

C

NOTIFY ALL RELATIVES AFFECTED BY THE CORRECTION

Help from Bureau Records *and* *Bureau approval required*

APPROVED

For all other Blood Degree Corrections

Corrections are made in **3** cases

A PERSON QUESTIONS HIS/HER BLOOD DEGREE IN WRITING

- All records must be examined
- All relatives affected should be notified

THE TRIBAL CONSTITUTION GIVES THE COUNCIL POWER TO CORRECT THE BASE ROLL AND THE TIME FOR CORRECTIONS HAS NOT EXPIRED

THE COUNCIL REQUESTS IN A RESOLUTION POWER FROM THE SECRETARY TO MAKE SPECIFIC CORRECTIONS ON THE BASE ROLL

The resolution explains each proposed correction.

- All persons whose blood degree will be affected by the change should be notified.

- A record should be kept of blood degree before and after the change. An explanation of why the change was made should be included in the file.

- The Bureau should be notified of the change so that their records may be corrected.

30. What Kind of Indian or Tribal Blood Degree Corrections Require Bureau Approval?

Blood degree corrections other than fixing mistakes in arithmetic based on the parents' records require Bureau approval.

Some errors may not be apparent on the record. An individual may challenge the blood degree of an ancestor that is shown on the base roll, for example. This kind of correction requires a change in basic information on the base roll, and must be approved by the Commissioner of Indian Affairs.

The individual who challenges a blood degree listed on the roll must first request *in writing* that a change be made. After the request is received, the tribe and the appropriate Bureau Area Office will examine all available records in trying to determine the correct blood degree.

"The preponderance of evidence" must show a listed blood degree is incorrect before it can be changed. The phrase means that if certain records are regarded as more reliable than others, they will be given greater weight. Or if most of the evidence shows the same blood degree, it will be regarded as the correct blood degree. In other words, the *most good evidence* will establish blood degree. Testimony of older tribal members may also be considered, but should not be regarded as final proof.

After the tribe and the area office have made a decision, these steps should be followed:

- The proposed correction, and all available evidence, should be sent to the Bureau for a final determination and approval.
- Each person affected by the change will be notified by the Bureau.
- Each person affected will be given 30 days to present evidence of why the blood degree should not be changed.
- The approved correction should then be made on tribal and Bureau rolls.
- Again, the tribe should keep on file a record of the blood degree before and after the change, an explanation of why the change was made, and a copy of the Bureau's approval of the change.

31. Do Corrections to the Base Roll Require Bureau Approval?

Yes. All corrections to the base roll (*except* for mistakes in arithmetic and other errors apparent on the record) require Bureau approval.

32. How Does the Tribe Obtain Authority to Correct the Base Roll?

There are three ways for the tribe to obtain authority to correct the base roll:

- The tribe receives a written request from an individual who questions the record;
- The tribal constitution empowers the tribal government to make corrections and the time for corrections has not expired; and
- A Council resolution requests the Commissioner to approve specific changes.

All corrections require Bureau approval.

33. What Legally Acceptable Information Can a Birth Certificate Provide?

A birth certificate can be depended on for date of birth and mother's identity. If the parents are married, the birth certificate can be used to establish father's identity. If the mother is single, the birth certificate is acceptable proof of paternity only if signed by the father himself.

A birth certificate is not acceptable proof of blood degree.

34. Does a Tribal Membership Roll for Tribal Purposes Require Bureau Approval?

A tribal membership roll for tribal purposes does not require Bureau approval *unless* the tribal constitution says it does. However, when a tribal membership roll is going to be used to distribute payments, it is called a payment roll, and the Bureau must review and approve it.

35. Who Is Affected By a Constitutional Amendment That Makes the Membership Requirements Harder to Meet?

Amendments to tribal membership requirements operate only on persons born or applying for membership after the effective date of the amendment, unless the amendment states otherwise.

36. Must a Person Be Enrolled in a Tribe To Be Eligible for Indian Employment Preference in the Bureau of Indian Affairs and Indian Health Service?

It is not mandatory that one be enrolled in a tribe to qualify for Employment Preference, but tribal membership is very helpful. An enrolled member of a federally recognized tribe is automatically eligible for Indian Employment Preference. If a person is not a tribal member, he or she must establish the possession of at least ½ Indian blood of a federally recognized tribe. (There are also other special categories of eligibility.)

37. Is There a Simple Way for an Indian To Establish Blood Degree to Officials Outside of the Tribe?

Yes. An Indian can obtain a blood degree certificate that is acceptable proof of blood degree when he or she is applying for certain

Federal services. The certification may be made by a tribal official, and then countersigned by the appropriate Bureau office; or it may be issued directly by the Bureau from official records.

38. May a Tribe Enroll People Who Are Not U.S. Citizens as Members?

As long as tribal law does not restrict membership to U.S. citizens, and a person meets all other membership requirements, he or she is eligible for membership for tribal purposes. The person may have difficulty qualifying for Federal services, though.

39. Why Are Tribal Assets Held in Trust by the Secretary of the Interior?

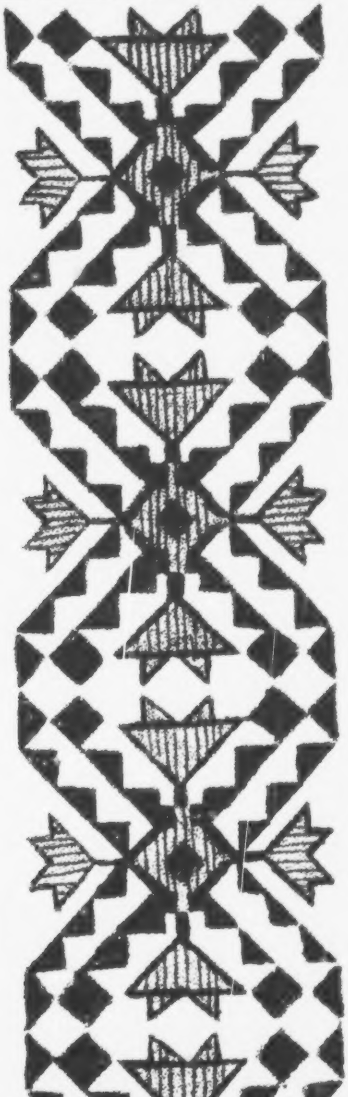
Placing the land in trust means that no individual can sell the land without approval of the "trustee" (that is, the Secretary). No outsider can seize the land without reckoning with the United States. The trust was established, in part, to protect the communal nature of reservation property.

40. What Happens to the Payment when a Child Receives a Share in Tribal Assets?

If a child receives a per capita share of trust assets which is less than $100, the parents or legal guardian have the responsibility to use this money in a way that is in the child's best interests. The parents or guardian are obligated to use the funds for the child's health, education, support or general welfare.

If the child's per capita share is an amount *greater* than $100, the money will be placed in an individual trust until the child reaches the age of 18. The money in this individual account will be earning interest for the entire time it remains in the account. The individual, if he or she wishes, may withdraw all funds on reaching the age of majority. 25 CFR 104.4 is the Secretary's regulation regarding trust asset distribution to minors.

APPENDICES



APPENDIX A

GLOSSARY

ABANDONMENT	The act of forsaking or giving up. In tribal affairs, "abandonment" is the forsaking of membership by moving away and not continuing a relationship with the tribe for a specified number of years. The actions constituting "abandonment" must be exactly defined in tribal law.
ADJUDICATE	To settle by a court's final decision. A dispute is adjudicated by taking the problem into court and having a judge or jury decide the final outcome.
ADOPTED CHILD	One whose natural parents' parental rights have been terminated by a court order and given to another.
ADOPTEE	A person who is adopted by the tribe into membership.
ADOPTION	Child into a family - Legal action whereby parental rights of natural parents are terminated by court order and assigned to another. Into membership - Granting of tribal membership to a person who does not meet the "automatic" eligibility requirements for enrollment. Adoption requires approval by the tribal governing body. There is no appeal if adoption is denied.

ADOPTION ORDINANCE	A law setting out procedures and requirements for admission into membership through adoption. The ordinance is enacted by a tribal governing body pursuant to authority in the tribal constitution or other law.
ADOPTIVE PARENT	One who has been given, by court order, the parental rights for a child born to other parents.
AFFIDAVIT	A written statement of fact signed by a person who swears it is true.
ALLOTMENT SCHEDULE	A list of persons who received land on an Indian reservation. See also ROLLS - ALLOTMENT.
AMENDMENT	A change, correction, or revision in a document; in legislation, a modification or alteration in a law or constitution.
ANCESTRY	Descent through parental lines; lineage.
ANNUITY	An amount paid yearly or at other regular intervals. Annuity payments to tribal members were often included in the terms of a treaty, and an annuity payment list is sometimes used as a tribal base roll. See also ROLLS - ANNUITY.
APPEAL	A complaint to a higher court that a lower court or administrative body made an error or caused an injustice to be done. The higher court rehears the facts

	and law and then chooses to either stand behind the lower court's decision or change the decision to correct the injustice or error. The right to judicial review of administrative actions is usually considered a fundamental part of due process. Sometimes the Tribal Council acts as an appeal body.
APPELLANT	A person who asks that a decision of one body be reviewed by a body with authority to change the decision.
APPELLATE REVIEW	The re-examination by a higher court of a decision made by a lower court or administrative body to make sure the lower court or administrative body made the correct decision.
APPLICANT	A person who seeks to be enrolled in the tribe and whose name is on the application.
ASCRIBED	Assigned something which may be reasonably deduced; credited someone with a quality. The term is used with "degree of Indian blood" to indicate the blood degree determined and recorded for an individual.
AUTOMATIC ELIGIBLE	A person who is a lineal descendant of a base enrollee and who meets other requirements for tribal membership.
BASE ENROLLEE	A person whose name appears on the document cited in the tribal constitution as the base roll.

BASE ROLL	The document cited in the tribal constitution. This document may be a census roll, annuity payment roll, or allotment schedule that lists persons in a specific place and time.
BILL OF ATTAINDER	A law that convicts and sets the punishment for named persons or specific groups of persons. An example of a bill of attainder in enrollment is a resolution denying membership to a person when others with the same qualifications were accepted for membership. Bills of attainder are prohibited by the U.S. Constitution and the Indian Civil Rights Act.
BLOOD QUANTUM	Degree or amount of Indian ancestry (degree of Indian blood).
BURDEN OF PROOF	The duty to positively prove a fact (or set of facts) in dispute. In general, the person who begins the dispute has the burden of proof. In criminal actions the government must prove guilt beyond a reasonable doubt, but in civil actions the plaintiff must only show that the facts are probably as he says.
BYLAWS	Provisions directing how tribal governing bodies operate. Bylaws are often included as a separate section of the constitution; however, the constitution is still considered one document.
CASE LAW	A series of court decisions on cases that are similar in subject.
CLAUSE	The smallest part of a legal document, usually a sentence or part of a sentence.

COLLATERAL RELATIVES	Descendants from the same ancestor, but not from one another (namely, aunts, uncles, brothers, sisters, cousins, etc.).
COMMON LAW	A body of rules or principles which originate in the actual usages and customs of a group. Whether these customary principles are written into statutory law or not, they are considered authoritative. A "common law marriage" is one that is regarded as binding even though it was not made official through a ceremony. State law will usually specify how long a period of cohabitation (living together) is necessary for a couple to be considered married by common law.
CONSTITUTION	A written document agreed on by the people which sets forth the fundamental and supreme law of the government. The document covers the organization and frame of government, the powers held by government and citizens, and the general plans and methods for governing. Constitution means the same as "Articles of Association" or "Governing Resolution."
CONSTITUTIONAL AUTHORITY	The express or implied powers granted by the people to the governing body of a tribe as the basis for the tribal government to operate on behalf of the tribal members. In the absence of a given authority, the governing body cannot act nor can it act in excess of its given authority. If the tribal government needs more authority, it must ask the people to grant additional power through an amendment.

CONSTRUCTION	The process of determining the meaning of terms or provisions in a document. When a court "construes" a document, statement, or phrase, it is interpreting the phrase with the aid of material other than the document but concerning the same topic. The construction of a statute is often aided by expressions of the statute's meaning contained in Congressional hearings and reports.
CONSTRUCTION OF A BASE ROLL	The creation of a base roll by substituting a document close to the time of the one specified in the constitution. This is done when the specific document cited in the constitution does not exist.
CORRECTION OF A BASE ROLL	Changing the base roll when mistakes are found. For example, names may have been omitted or dates of birth and Indian blood degrees may have been recorded incorrectly.
CRITERIA	Standards, conditions, or requirements on which a judgment or decision may be based; as in membership criteria. A single requirement is called a "criterion."
DEFENDANT	A person who must explain himself or make answer in a lawsuit. For example, if a rejected applicant for enrollment complains against the tribe in court, a tribal official would answer for the tribe and be the defendant.
DEGREE OF INDIAN BLOOD	Degree or amount of Indian ancestry.

DESCENDANT	When used in enrollment, this term refers to lineal descendants. Lineal descendants are the children of parents, who are children of parents. Collateral relationships, such as brothers, sisters, aunts, uncles, nieces, nephews, and cousins, are not considered lineal descendants. (See also LINEAL DESCENDANT and COLLATERAL RELATIVES.)
DESCENT-DESCENDANCY	Derivation from an ancestor; birth, lineage.
DISENROLLMENT	An affirmative action by the tribe to deprive a member of the right to tribal membership.
DOCUMENTATION	The supplying of legal evidence to support a statement of fact. No enrollment action should be taken without documentation to support the decision.
DUAL ENROLLMENT	Membership in more than one tribe.
DUE PROCESS OF LAW	A course of legal proceedings according to the rules and principles established for the protection of individual rights. The fundamental requirements of due process are notice and an opportunity to be heard. When a government (tribe or tribal organization) makes a decision affecting the life, liberty, or property of an individual, the government must provide an opportunity to the individual to defend those rights, and, in reaching a decision, the government must not act unreasonably.

ENROLLMENT COMMITTEE	An official group established by the Tribal Council for the purpose of regularly reviewing enrollment applications and recommending (and in some cases deciding) whether they should be approved or rejected.
ENROLLMENT STAFF	Workers, either paid or voluntary, who assist the Enrollment Committee in all aspects of enrollment. The staff itself does not have authority to make enrollment decisions or direct recommendations.
ENTITY (POLITICAL)	An entity is a thing that is distinct from, and - to some degree - independent of all other things. A political entity is a group of people organized under a government, occupying a certain territory and having some sovereign powers.
EQUAL PROTECTION OF THE LAW	Legal provisions assuring that each person within a government's jurisdiction is subject to the same restrictions and has available the same freedoms. It is not required that every person be treated the same, but every person in the same situation must be treated alike. One person cannot be denied a right that is granted to others similar to him.
ERRORS APPARENT ON THE RECORD	Simple mistakes that are obvious from examining other information on the record. For example, a son's Indian blood degree is shown incorrectly, as 1/4, when his parent's Indian blood degrees are both shown on the record as 4/4. Errors apparent on the record do not require Bureau approval for correction.

EXECUTIVE FUNCTION	The enforcement of laws and the administering of a government in accordance with the laws passed by the legislative body.
EXHAUSTION OF REMEDIES	A requirement that a person seeking relief that could be granted by a governmental organization must try to settle the problem through the channels provided for appeal and review within the organization before going to court. It also applies to the requirement that a person start the claim in a lower court and work the way up to the appeals courts.
EX POST FACTO	A law that punishes or taxes persons for acts they committed before the law was passed. Such laws are prohibited by the U.S. Constitution and the Indian Civil Rights Act.
FAMILY TREE	The relationship or lines of descent through parental lines. A family tree chart is used to trace and demonstrate ancestry.
FEDERALLY RECOGNIZED TRIBES	Indian tribes generally recognized by the Federal Government as self-governing entities and whose members are usually eligible for Federal services.
FRAMER	One who puts something into words according to a pattern, as in "framing a constitution."
GENEALOGICAL CHART (FAMILY TREE)	A diagram tracing a line of descent.

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GENEALOGY	Recorded history of descent of a person or family from an ancestor or ancestors. Science or study of family descent. Descent from an ancestor; pedigree, lineage.
GUARDIAN	One who has the care of a person or property of another.
HIERARCHY	An arrangement of things according to rank or degree of power and authority, such as the hierarchy of law.
INDIAN	No single definition exists. This term must be carefully reviewed whenever it is used. The many Federal and tribal laws dealing with Indian people and programs may each define "Indian" for purposes of that act alone.
JUDGMENT FUND	A sum of money awarded by a court as compensation for damages done to one person (or group) by another person (or group).
JURISDICTION	The power, right, or authority to interpret and apply the law; the authority of a sovereign power to govern or legislate; as in jurisdiction of tribal government over its members.
JUST CAUSE	A reasonable basis for taking an action. To satisfy the requirements of due process a government organization must show that it has a fair and honest reason for its action.

KINSHIP	Personal relationship by blood and sometimes by marriage; relationship by descent from a common ancestor.
LEGISLATIVE FUNCTION	Making laws, rules, and policy to govern future rights and conduct.
LEGISLATIVE INTENT	The reason why a law was passed; the purpose of the law. Legislative intent is determined by analyzing transcripts of hearings, records of debates, minutes of meetings, and different versions of proposed laws.
LINEAL DESCENDANT	The direct issue of an ancestor (namely, the child, grandchild, etc.). Collateral relatives such as aunts, uncles, brothers, sisters, etc., are not considered lineal descendants.
LITIGATE	To take a dispute to a court of law.
MATERNAL	(From Latin *maternus* - *mater*) Of or relating to a mother.
MATRILINEAL	Descent or kinship through the mother instead of the father.
MINISTERIAL FUNCTION	Carrying out and enforcing the laws. One carrying out ministerial functions has no choice in whether to act. He should do what the law requires and may be forced to do so by a writ of mandamus.
NEXT FRIEND	One who, without being a regularly appointed guardian, acts for the benefit of a minor or legally incompetent person.

NOTARIZE	To have a document attested before or authenticated by a public officer (a notary) who witnesses the signature and certifies that it is authentic.
OPINION	A document by the Solicitor or an Associate Solicitor of the Department of the Interior giving a legal analysis of a problem or controversy presented. It may recommend a legal path to follow. A document prepared by a lawyer for his client giving a legal analysis of a set of facts. A document prepared by a court which contains the decision and reasoning of the outcome of a case heard in the court.
ORDINANCE	A law that establishes how to do something and regulates rights. An enrollment ordinance sets up procedures by which membership decisions are made.
PATERNAL	(From Latin, paternus - pater) Of or relating to a father.
PATERNITY ACKNOWLEDGEMENT/PATERNITY STATEMENT	Document signed by the father or an illegitimate child which states that he is the father. Paternity statements issued by other members of the child's family are not recognized for enrollment purposes.
PATRILINEAL	Descent or kinship through the father instead of the mother.

PER CAPITA	(Literally, "by heads.") Equally to each individual. A per capita payment is a distribution in equal units to each person.
PETITION	A request. In law, a petition is a formal written request addressed to a court or public official.
PLAINTIFF	A person who begins a lawsuit to obtain a remedy for an injury to his rights. For example, a rejected applicant for enrollment who complains against the tribe in court is the plaintiff.
PRECEDENT	Court decisions which serve as examples and provide guidance for cases that follow.
PREPONDERANCE OF EVIDENCE	A "preponderance" is a superiority in weight or quantity. "Preponderance of evidence" means that more or better evidence--or simply the best evidence--establishes something.
PROCEDURAL LAW	Law that establishes procedures, or steps, through which substantive legal principles are to be carried out. An ordinance establishing an enrollment system to carry out the substantive membership requirements is an example of procedural law.
PROSPECTIVE	Likely to happen. A prospective law applies AFTER the law is enacted and NOT BEFORE.
PURSUANT TO	In the course of carrying out.

	In agreement with; according to. Tribal enrollment, for example, is conducted pursuant to tribal or Federal law.
QUANTUM	A portion; an allotted unit or amount.
REFERENDUM	The procedure whereby voters express themselves directly on actions or proposed actions by voting for or against them.
RELINQUISHMENT OF MEMBERSHIP	Personal action by a tribal member to sever tribal relationship. Relinquishments can be absolute or conditional upon acceptance as a member of another tribe. It must be in writing and is effective upon receipt by the tribal governing body (or when stated conditions are met). The tribe cannot refuse relinquishment unless enrollee is legally incompetent.
RESIDENCE	As used in enrollment requirements, residence cannot be generally defined. Some tribes strictly define residence as actual physical presence. Other tribes define it more liberally. Tribes should define residence for the purpose of enrollment in an ordinance.
RESOLUTION	A formal statement by a governing body of a decision to do something.
RETROACTIVE	Applying to things that happened earlier. A retroactive law applies to activites BEFORE the date of the law's enactment. For example, in 1980 a retroactive law is passed that prohibits smoking in a restaurant. Under this law, you could still be prosecuted, even though in 1976 there was no such prohibition. Retroactive laws of this kind are illegal because they are unfair.

ROLLS

Allotment Roll (Allotment Schedule)

List of persons who received land on an Indian reservation.

Annuity Roll

List of persons entitled to share in yearly payments made to the tribe under Treaty or Act of Congress. The list usually names the members of the tribe at the time the payment was made.

Base Roll

The original list of members as designated in a tribal constitution or other document specifying enrollment criteria. Future membership is derived from that base roll with the exception of persons adopted into membership.

Census Roll

List of population of a reservation. It usually includes, in addition to tribal members, all other persons associated with the tribal group, whether Indian or non-Indian.

Current Roll

A list of members up-to-date as of a specified date.

Descendant Roll

A list prepared for distribution of judgment funds according to a plan enacted by Congress. It is different from a tribal roll because it is prepared by the Secretary on a descendant basis without regard to tribal affiliation and may include persons who are members of other tribes. Being listed on a descendant roll has no effect on an individual's tribal membership.

	Membership Roll A list of persons who meet the requirements for membership in a particular Indian tribe. A membership roll maintained by tribal officials is not necessarily binding on the Secretary when distributing tribal assets held in trust by the United States.
	Payment Roll A list of persons entitled to share in the distribution of assets belonging to an Indian tribe. The payment may be based on membership or on descendancy, depending on the source of funds and Congressional authorization for their disposition.
	Tribal Roll for Tribal Purposes A list prepared by a tribe and used for voting, office holding, and other tribal purposes. This roll does not require approval from the Bureau unless the tribal constitution provides for it.
SECRETARIAL ELECTION	A tribal vote on an amendment to the constitution conducted pursuant to the Secretary's rules or regulations.
SEGREGATED BLOOD DEGREE	A blood degree that separates and lists different kinds of tribal blood apart from one another.
SEPARATION OF POWERS	The distribution of authority among the executive, legislative, and judicial branches of government. Separation of powers provides checks and balances so that power will not concentrate in a single branch.

SOLICITOR	The chief legal officer of the Department of the Interior. The employees of the Solicitor's Office provide legal guidance to the BIA and to the tribes. The Solicitor also makes decisions as to the legality of tribal activities and governmental organizations. Such decisions are called Opinions of the Solicitor.
SOVEREIGN	Independent, self-governing, autonomous. A tribe has some powers of a sovereign nation.
SPONSOR	The person who has the authority to do something for someone who, because of age, absense, or incompetence, cannot do it for himself.
STATUTE	A law or established rule.
STATUTORY CONSTRUCTION	An interpretation of the law; an attempt to understand the meaning of a law.
STRUCTURAL ERRORS	Mistakes on the base roll that occur when names are omitted, no blood degree is indicated, or when the mistake requires further research. Correcting structural errors requires Bureau approval.
SUBSTANTIVE LAW	A kind of law that creates, defines, and regulates rights. For example, a law may guarantee that individuals have the right to own property or the right to travel freely. Substantive law is different from procedural or remedial law, which prescribes methods of enforcing law.

TRIBAL GOVERNING BODY	The group recognized by the Secretary as having the authority to speak for the tribe. The term includes tribal councils, general councils, business committees, boards of directors, business councils, or whatever group the Indian tribe has empowered to speak on its behalf.
TRIBAL MEMBER	Individual who meets the membership requirements specified by the tribe in its constitution or other organizational document. In the absence of such document, requirements may be specified in an enrollment ordinance enacted by the tribal members in general council and approved by the Secretary.
TRIBAL ROLL FOR TRIBAL PURPOSES	A list prepared by a tribe and used for voting, office holding, and other tribal purposes. This roll does not require approval from the Bureau unless the tribal constitution provides for it.
TRUST ASSETS, TRUST ESTATE	Tribal land, income from land, and any other tribal funds that are held by the Federal Government for the tribe. Judgment funds are also trust assets.
WEDLOCK	The state of being married. "Out of wedlock" means outside of the marriage bond. A child born "out of wedlock" is born to a single mother.
WRIT OF MANDAMUS	(Literally, "we command") A judicial order to a government official directing him to perform his duty. When a public official refuses to act as required by law, the court may force him to carry out his responsibilities by the writ.

APPENDIX B

Sample Enrollment Forms

COVER LETTER RESPONDING TO REQUEST FOR APPLICATION

Matuck Tribe
Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

Dear Applicant:

Enclosed is application number ______________________________ in response to your request and a copy of the requirements for membership in the Matuck Tribe. Please return the form to this office with documents to prove your eligibility for enrollment in the Matuck Tribe.

This office will gladly assist you in any way we can.

Yours truly,

____
Enrollment Office

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

ENROLLMENT APPLICATION #________

Applicant's Full Name ______________________________

Date of Birth ______________________________

Mailing Address ______________________________

____
City State Zip

Social Security No. ______________ Sex _____ Marital Status ________

Degree of Indian Blood

Name ______________________

Matuck ________/________

Other Indian ________/________

Total Indian ________/________

I.D. Number ______________________

(Copy of Birth Certificate, Baptismal Record, or other proof of parentage must accompany form)

Questions: Please circle one answer:

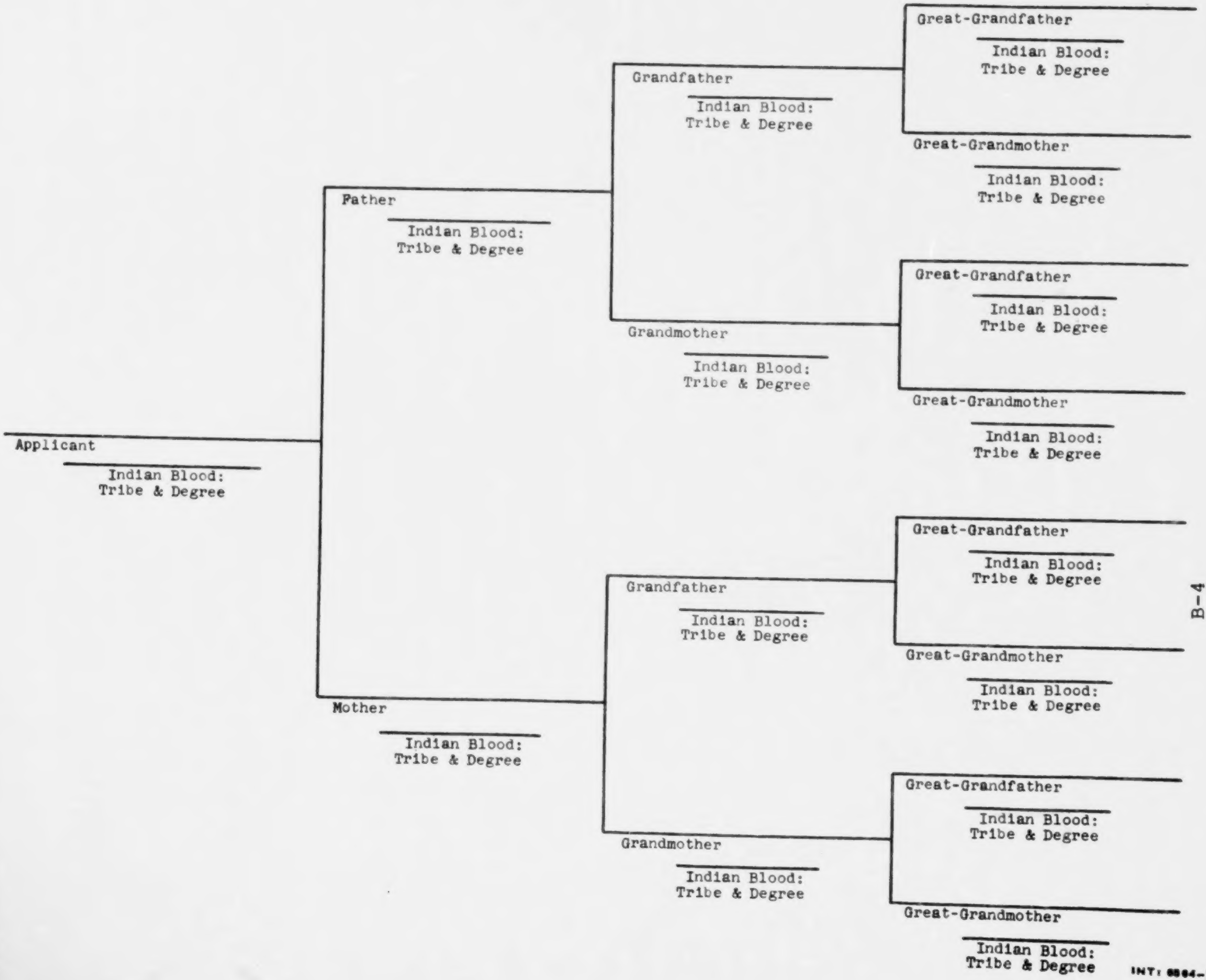
1. Applicant (is/is not) an adopted child.
2. Applicant (is/is not) an enrolled member of another tribe.
3. Applicant (is/is not) a direct descendant of an enrolled member.

APPLICANT/SPONSOR

Signature ______________________

If sponsor, relationship
to applicant ______________________

Date ______________________


Applicant
Indian Blood:
Tribe & Degree
Father
Indian Blood:
Tribe & Degree
Mother
Indian Blood:
Tribe & Degree
Grandfather
Indian Blood:
Tribe & Degree
Grandmother
Indian Blood:
Tribe & Degree
Grandfather
Indian Blood:
Tribe & Degree
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Indian Blood:
Tribe & Degree
Great-Grandfather
Indian Blood:
Tribe & Degree
Great-Grandmother
Indian Blood:
Tribe & Degree

PETITION FOR ADOPTION

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

PETITION FOR ADOPTION INTO THE MATUCK TRIBE

I, ______________________, hereby request adoption into the Matuck tribe.

1. My Indian blood degree is ______________________.
2. My Matuck tribal blood degree is ________________.
3. I have lived on the reservation for ______________________________
4. I (am/am not) married to a tribal member. (Circle one.)
   Name of member ____.
5. I (am/am not) a lineal descendant of a tribal member. (Circle one.)
   Name of member ____.
6. Other reasons why I believe I should be adopted by the tribe:
   ____
   ____
   ____
   ____
   ____
   ____

Signed ______________________________
Petitioner

Date ______________________________

MATUCK ADOPTION REQUIREMENTS:

¼ Indian Blood, and
Residence on the reservation, or
Relation to a member

SAMPLE LETTER REQUESTING BIRTH CERTIFICATE

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

Dear Mrs. Henry:

We received the completed application for enrolling your son in the Matuck Tribe. Before we can take action, his birth certificate (or certified copy) is required as proof of parentage.

If you need help in obtaining the birth certificate, we will gladly advise you on where to write.

Yours truly,

Enrollment Office

RECOMMENDATION VOTES & COMMITTEE ATTENDANCE RECORD

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

ENROLLMENT COMMITTEE

The following persons who have submitted application for Membership in the Matuck Tribe under the Guidelines of the ENROLLMENT ORDINANCE are hereby submitted on this date ____________________ 19____, by the ENROLLMENT COMMITTEE to the MATUCK TRIBAL COUNCIL for the following action:

1. ________________________________ Approved_____ Rejected_____

Reasons: ____

____

2. ________________________________ Approved_____ Rejected_____

Reasons: ____

____

3. ________________________________ Approved_____ Rejected_____

Reasons: ____

____

4. ________________________________ Approved_____ Rejected_____

Reasons: ____

____

ENROLLMENT COMMITTEE MEMBERS

Name	Initial

COUNCIL DECISION VOTES

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

APP. NO.:
NAME:
FATHER:
MOTHER:
SUBJECT:
ENROLLED: Meets the requirements of Article _____, Section _____ of the Constitution and Bylaws of the Matuck Tribe of Cactus Flower, Arizona, and the Ordinance Governing Enrollment Procedures Act.

____________________ For ____________________ Against

APP. NO.:
NAME:
FATHER:
MOTHER:
SUBJECT:
ENROLLED: Meets the requirements of Article _____, Section _____ of the Constitution and Bylaws of the Matuck Tribe of Cactus Flower, Arizona, and the Ordinance Governing Enrollment Procedures Act.

____________________ For ____________________ Against

APP. NO.:
NAME:
FATHER:
MOTHER:
SUBJECT:
ENROLLED: Meets the requirements of Article _____, Section _____ of the Constitution and Bylaws of the Matuck Tribe of Cactus Flower, Arizona, and the Ordinance Governing Enrollment Procedures Act.

____________________ For ____________________ Against

LETTER OF REJECTION

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

Dear Applicant or Sponsor:

The Enrollment Application of _________________________ has been reviewed by the Enrollment Committee of the Matuck Tribe, and, from the information provided in said application, together with all other available evidence concerning the applicant's eligibility for membership in the Matuck Tribe, the application is rejected for the following reasons:

____

____

____

You may present further evidence of why you should be enrolled at the Enrollment Committee meeting to be held at __________________________ on ___________________________ in the Matuck Tribal Arts and Crafts Building, Cactus Flower, Arizona. At this hearing, you may represent yourself, or be represented by counsel, friend, or any other person at your own expense. All parties will be given adequate opportunity to examine all records, documents, testimony, and any other evidence upon which the committee may base its final decision; bring witnesses to present testimony; establish all pertinent facts and circumstances; confront and cross-examine adverse witnesses; and to refute any testimony or evidence.

If you are unable to attend this hearing, please notify the Enrollment Office by return mail. If you do not notify the office to set another date and you do not attend the scheduled hearing, we will assume you accept our decision.

Very truly yours,

LETTER OF ACCEPTANCE

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

Dear Applicant or Sponsor:

The Enrollment Application of ____________________________ has been reviewed by the Enrollment Committee of the Matuck Tribe, and, from the information provided in said application, together with all other available evidence concerning the applicant's eligibility for membership in the Matuck Tribe, the application is approved.

Your Matuck Tribal Identification No. is _________________. Your certificate of enrollment and I.D. card are enclosed.

Very truly yours,

RESOLUTION OF ENROLLMENT APPROVAL

Resolution No. 79-03

WHEREAS, the Matuck Tribal Council has the responsibility of enrolling Tribal Members pursuant to the Ordinance of the Matuck Tribe of Cactus Flower, Arizona Enrollment Procedures Act, and

NOW THEREFORE BE IT RESOLVED, that the following applicant(s) is (are) approved:

1.

2.

3.

C-E-R-T-I-F-I-C-A-T-I-O-N

The foregoing resolution was duly enacted by the Matuck Tribal Council on (date) of a duly held meeting at which a quorum was present with a vote of 7 FOR and 0 ABSTAINED. Pursuant to authority vested in the Matuck Tribal Council by Article II of the Constitution and By laws of the Matuck Tribe of Indians of Arizona, said resolution is effective as of this date of enactment and does not require Secretarial approval.

ATTEST: ______________________________

Chairman, Tribal Council

____

Matuck Tribal Secretary

RESOLUTION NO. 79-03

RESOLUTION OF ENROLLMENT DISAPPROVAL

Resolution No. 79-04

WHEREAS, the Matuck Tribal Council has the responsibility of enrolling Tribal Members pursuant to the Ordinance of the Matuck Tribe of Cactus Flower, Arizona Enrollment Procedures Act, and

NOW THEREFORE BE IT RESOLVED, that the enrollment of (Name) is disapproved because of failure to meet the blood requirement stated in Article II, Section 1c of the Matuck Constitution.

C-E-R-T-I-F-I-C-A-T-I-O-N

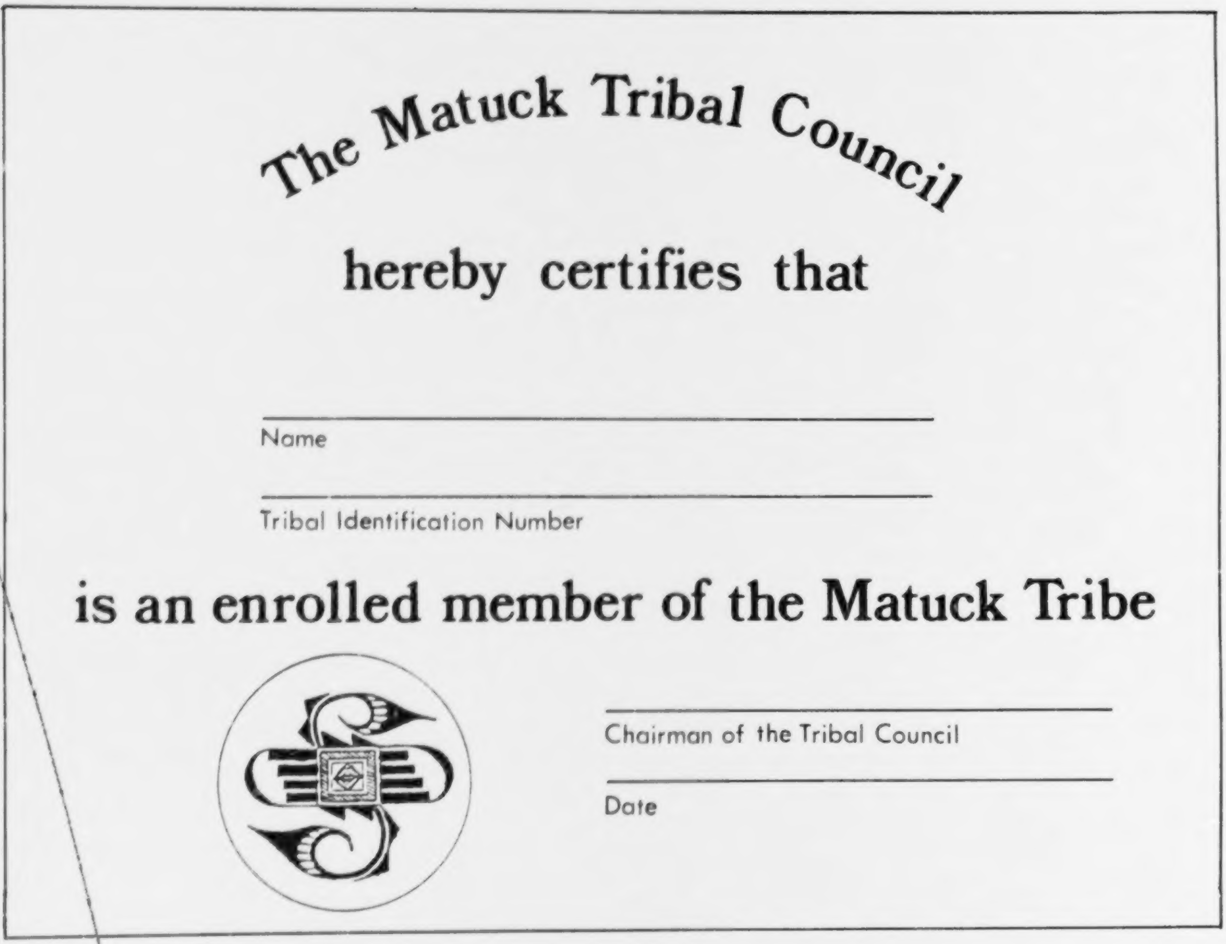
The foregoing resolution was duly enacted by the Matuck Tribal Council on (date) of a duly held meeting at which a quorum was present with a vote of 7 FOR and 0 ABSTAINED. Pursuant to authority vested in the Matuck Tribal Council by Article II of the Constitution and By laws of the Matuck Tribe of Indians of Arizona, said resolution is effective as of this date of enactment and does not require Secretarial approval.

ATTEST: Chairman, Tribal Council

Matuck Tribal Secretary

RESOLUTION NO. 79-04

ENROLLMENT CERTIFICATE



The Matuck Tribal Council

hereby certifies that

Name

Tribal Identification Number

is an enrolled member of the Matuck Tribe

Chairman of the Tribal Council

Date

TRIBAL IDENTIFICATION CARD

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

____
Name

is enrolled in the Matuck Tribe of
the Matuck Reservation, Cactus Flower,
Arizona.

____
Tribal Identification Number

This card belongs to the Matuck
Tribe and Holder agrees to
return it upon demand.

(Reverse side of card)

RELINQUISHMENT FORM

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

I, ________________________________, an adult person, do hereby sever my tribal relations with the Matuck Tribe of Cactus Flower, Arizona. I am relinquishing my membership in the tribe for the following reasons: (list your reasons, if any)

____

____

____

____

____

____

____

This cancellation of my membership is made freely and voluntarily with the full understanding that henceforth I shall cease to hold membership in the Matuck Tribe of Arizona, and that I will no longer be eligible for benefits I am entitled to as a member of the tribe.

My membership is cancelled as of: (check one)

☐ The date the Matuck Tribe receives this form.

____
Day Month Year

☐ The date of my acceptance into another tribe.

____
Name of Tribe

____
Day Month Year

Signature of person relinquishing:

____

Address: ____________________________________

____

RELINQUISHMENT FOR A MINOR

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

I, ______________________________, sponsor of ______________________, do hereby relinquish membership for him/her (circle one) in the Matuck Tribe.

This cancellation of membership is made for __________________________ with the full understanding that henceforth he/she (circle one) shall cease to hold membership in the Matuck Tribe of Arizona and that he/she (circle one) will no longer be eligible for the benefits of Matuck membership.

Relinquishment effective as of: (check one)

☐ Date the Matuck Tribe receives this form

____
Day Month Year

☐ Date of minor's enrollment in another tribe

____
Name of Tribe

____
Day Month Year

Sponsor's signature: ______________________________________

Relationship of sponsor to minor: ______________________________

Sponsor's address: ______________________________________

____

SWORN STATEMENT
OF PATERNITY

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

AFFIDAVIT

I, ______________________ hereby certify that I am the Mother of ______________________ born ______________________ and that ______________________ is the Natural Father of said (Child) and that the Child is not the issue of lawful wedlock.

____
Mother

____
Father

SUBSCRIBED AND SWORN TO before me this ______ day of ______________ 19_____.

SEAL

____
Notary Public in, and for the State
of Arizona, residing at: ______________
____
____

Expiration Date ______________________

DISENROLLMENT LETTER

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

Dear____________________________:

The Matuck Tribe is considering your disenrollment for one or more of the following reasons:

☐ Enrollment in another tribe.

Explanation:____
____
____
____

☐ Abandonment

Explanation:____
____
____
____

☐ Fraud

Explanation:____
____
____
____

☐ Error

Explanation:____
____
____
____

You may present evidence of why you should not be disenrolled at the Enrollment Committee meeting to be held at ______________________________ on ________________________ in the Matuck Tribal Arts and Crafts Building, Cactus Flower, Arizona. At this hearing, you may represent yourself, or be represented by counsel, friend, or any other person at your own expense. All parties will be given adequate opportunity to examine all records, documents, testimony, and any other evidence upon which the committee may base its recommendation; bring witnesses to present testimony; establish all pertinent facts and circumstances; confront and cross-examine adverse witnesses; and to refute any testimony or evidence.

If you are unable to attend this hearing, please notify the Enrollment Office by return mail.

Very truly yours,

NOTICE OF BLOOD CORRECTION

Matuck Tribe

Enrollment Office
P.O. Box 7
Cactus Flower, Arizona 56204

NOTICE OF BLOOD CORRECTION

____

____

__________ ____________________

Certified Mail -- Return
Receipt Requested

You are hereby notified that the Enrollment Committee of the Matuck Tribal Council of the Matuck Tribe of Arizona will meet on the __________ day of ____________, 19____, at the Matuck Tribal Arts and Crafts Building, Cactus Flower, Arizona, between ________A.M. and ________P.M. for the purpose of correcting your blood degree from __________ to ____________ in accordance with the following facts taken from our records:

____

____

____

____

Please sign this form letter and return it, if you agree. However, if you do not agree, you may appear in person bringing additional documents or witnesses with affidavits.

If we do not hear from you by the date shown above, the records will be considered agreeable to you.

Enrollment Committee of the Matuck
Tribal Council of the Matuck Tribe

By:____________________________
Chairman, Enrollment Committee

____
Acknowledged

____
Date

APPENDIX C

Matuck Constitution

PREAMBLE

We, the members of the Matuck Tribe, in order to establish a more effective form of tribal government, to better exercise the privileges and powers of self-government, to preserve Matuck Tribal Customs, to use and control our hereditary lands, and to secure our rights and privileges as members, do hereby establish this Constitution and Bylaws for the members of the Matuck Indian Tribe.

ARTICLE I - Territory

Section 1

The authority and jurisdiction of the Matuck Tribe shall extend to all of the territory within the boundaries of the Matuck Reservation as established by Executive Orders of January 9 and November 18, and April 1, 1883 and to all lands which may be acquired by the Tribe by the United States or which the Tribe may acquire for itself.

Section 2

The above lands constitute our place of origin and our continued habitation and occupancy, which is capable of proof at all times and has so been recognized by governmental action and court decisions over the years. It is hereby declared that the title to these lands includes, but is not limited to all the surface rights, subsurface rights and all accretions and that such lands are held by the United States in trust for the Matuck Tribe of Indians.

ARTICLE II - Membership

Section 1 The membership of the Matuck Indian Tribe shall consist of persons who meet (one of the) following eligibility requirements.

A. All persons of Matuck Indian blood whose names appear on the official census of January 1, 1935.

B. All persons who have been adopted as of the effective date of this Constitution and Bylaws.

C. All lineal descendants of persons in categories (A), (B), or (C) who are at least one quarter Matuck Indian blood.

D. All persons who may be adopted into the Matuck Tribe pursuant to Section 5 of this Article.

Section 2 A person shall not be eligible for membership if he is a recognized member of another Tribe. Provided: "Recognized" means that the person is listed on an official membership roll or has received a land allotment on another reservation.

Section 3 A person shall not be considered ineligible for membership in the Matuck Indian Tribe:

A. If he is enrolled with another Tribe through a parent and yet meets the membership criteria of the Matuck Indian Tribe. Provided: Any person wishing to be enrolled in the Matuck Tribe in such circumstances must relinquish his membership with the other Tribe.

B. If he inherits or acquires (not through allotment) land on another reservation and otherwise meets the membership criteria of the Matuck Tribe.

Section 4 A. Corrections may be made to the base roll at any time by a 2/3 vote of the Tribal Council subject to the approval of the Secretary of the Interior. Secretarial approval is not required for correction of errors apparent on the record.

Section 5 The Tribal Council shall have the power to enact ordinances (subject to the approval of the Secretary of the Interior or his authorized representative) which establish rules and regulations governing future membership, loss of membership, adoption, procedures for enrollment and preparation and approval of an official membership roll. Such ordinances shall be consistent with Article V of this Constitution and Bylaws. Provided: No person shall be adopted except as provided in Section 6 (Honorary Membership) unless such person is of at least one-quarter (1/4) Indian Blood.

Section 6 The Matuck Tribe Council shall have the power to enact ordinances providing adoption of persons for honorary membership in the Matuck Tribe. Such honorary membership shall not entitle any person to any rights in Tribal property or assets or to any other right or privilege guaranteed by this Constitution and Bylaws. Persons having honorary membership shall not be enrolled on the official Tribal roll.

ARTICLE III - Governing Body

Section 1 The governing body of the Matuck Tribe shall be the Tribal Council. The Council shall consist of 7 members.

Section 2 The Council members shall be elected 60 days after ratification of the Constitution and Bylaws. The three (3) Council members who receive the highest votes shall hold office for three (3) years; the two (2) Council members who receive the next highest votes will serve for two (2) years, and the two Council members receiving the least votes will serve for one year. Thereafter each Council member elected will serve three (3) years.

Section 3 Immediately after the regular election for Councilmen, there shall be an election for Chairman and Vice-Chairman by the registered voters, if either term of office has expired. The officers so elected shall hold such office for a term consistent with his tenure as a Councilman. The person(s) receiving the highest number of votes shall be elected to the respective vacant office. Both the Chairman and Vice-Chairman may be reelected to successive terms provided they are elected Councilmen.

Section 4 The Council shall choose a secretary and a treasurer from within or outside the Council membership. The Council shall also choose such committees from within or without its membership as may be deemed necessary as further provided for under Article IV - Powers of the Council.

Section 5 Any registered voter of the Matuck Tribe shall be eligible to be a candidate for election to the Tribal Council if he has reached the age of eighteen

(18) years and has been a resident of the Matuck Reservation for the twelve (12) months past. The term "resident" shall be defined in an election ordinance.

Section 6 Members of the Council shall take office at a meeting of the Tribal Council which shall take place the first Saturday after an election at which time they shall take an oath administered either by the Chairman of the Tribal Council, Vice-Chairman or Chairman Pro Tem elected by a majority of the Councilmen in office, whichever official is available.

ARTICLE IV - Powers of the Council

Section 1 The Matuck Tribal Council shall have the following powers:

A. To represent the Tribe and act in all matters that concern the general welfare of the Tribe, and to make decisions not inconsistent with or contrary to this Constitution and Bylaws or the Constitution and laws of the United States.

B. To negotiate and make contracts with Federal, State and local Governments and with any individual, firm, or company subject to the approval of the Secretary of the Interior or his authorized representative where such approval is required by this Constitution and Bylaws.

C. To advise and consult with the Secretary of the Interior or his representative on all activities that may affect the Matuck Reservation and to make appropriation requests to the Bureau of Indian Affairs on any project beneficial to the Matuck Tribe.

D. To employ legal counsel, the choice of counsel and fixing the fees to be subject to the approval of the Secretary of the Interior or his authorized representative, so long as such approval is required by Federal law.

E. To veto the sale, disposition, lease or encumbrance of tribal lands or interest in tribal lands, tribal funds or other tribal assets which may be authorized by any agency or employee of the Government.

F. To protect and preserve the wildlife and natural resources of the Tribe; to regulate hunting, fishing or trapping on the reservation.

G. To cultivate Indian Arts, Crafts and Cultures.

H. To administer charity.

I. To negotiate permits and leases, subject to approval of the Secretary of the Interior, for business, homesite and other purposes, and generally to provide for proper use and development of all tribal lands, natural resources and other tribal property.

J. To appropriate tribal funds for tribal purposes.

K. To mortgage or otherwise encumber tribal trust land and to borrow money from any source and pledge or assign chattels or future tribal income as security therefore with the approval of the Secretary of the Interior or his authorized representative.

L. Enact ordinances to regulate the use of all reservation lands through zoning, taxation and otherwise.

M. To manage and control community property, community enterprises and other economic projects and programs of the Matuck Tribe including, but not limited to, the establishment of housing and rental authorities, loan programs, and appointment of planning, programming, and development committees, and the development and approval of impact and environmental statements.

N. To authorize, charter, and regulate associations and corporations formed by members of the Matuck Tribe for business or charitable purposes and to authorize formation of corporations under Federal or State law for economic, charitable or public purposes.

O. To provide by resolution or ordinance, the conditions upon which nonmembers may enter or remain on the reservation and provide for the removal or exclusion from the reservation of any nonmembers whose presence may be injurious to the tribal members or to the interests of the Tribe.

P. To regulate its own procedures, to appoint subordinate committees, commissions, boards, tribal officials and employees not otherwise provided for in this Constitution and Bylaws, to prescribe their salaries, tenure and duties. Appointees may or may not be tribal members.

Q. The authority to establish and prescribe rules for governing tribal courts and tribal law enforcement agencies and to provide for the maintenance of law and order on the reservation.

R. The Council may exercise such further powers as may be delegated for the Matuck Tribe by the Secretary of the Interior or his authorized representative.

Section 2 The foregoing enumeration of powers shall not be construed to limit the powers of the Matuck Tribe and in no way shall be deemed an abdication or forfeiture of the Tribe's inherent attributes of sovereignty, and such powers may be exercised through the adoption of appropriate bylaws or constitutional amendments.

Section 3 Manner of Review - Any resolution or ordinance which, by the terms of this Constitution, is subject to the review or approval of the Secretary of the Interior, shall be given to the Superintendent within fifteen days of enactment. The Superintendent shall, within ten days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall send a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within ninety days from the date of enactment, rescind said ordinance or resolution for any reason by notifying the Tribal Council of his decision.

If the Superintendent shall refuse to approve any ordinance or resolution submitted to him, within ten days of receipt from the Tribal Council, he shall report his reasons to the Tribal Council. If the Tribal Council thinks these reasons are not sufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within ninety days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE V - Rights of Members

Section 1 The rights of the members of the Matuck Tribe to hold religious beliefs, speak and write freely, and the right of the members of the Matuck Tribe to assemble and petition their government shall not be disturbed.

Section 2 The Matuck tribal government shall not deprive any person of liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 3

The rights here enumerated shall not be construed to deny or disparage other rights retained by the people.

ARTICLE VI - Elections

Section 1

General elections to vote for councilmen shall be held every year on the first Saturday in June. The voting place shall be as designated in an election ordinance.

Section 2

Special elections for councilmen shall be held upon call by the Tribal Council as provided in Article VII and IX, and notice of them shall be given as in the case of general or regular elections.

Section 3

All elections shall be announced by special notice posted at least thirty (30) days before the election at the voting places and other public places.

Section 4

Nominations shall be made at a general meeting of the Matuck Tribe called for that purpose. Procedures for the nomination process shall be spelled out in an election ordinance.

Section 5

A. All elections shall be by secret written ballot. All tribal members, eighteen (18) years of age or older who are registered to vote, can vote in any election. The Council shall have the power to prescribe ordinances, governing the conduct of elections for councilmen and officers of the Council and referendums.

B. If the Tribal Council shall fail to give the appropriate notice of the election, or in case a regular election has not been held, the Secretary of the Interior, upon the receipt of a petition signed by a least thirty percent (30%) of the registered voters of the Tribe, shall call such election and shall give thirty (30) days notice, setting the time and place of the election. The calling of an election shall take place no later than one-hundred-eighty (180) days from the date of the petition, according to rules and regulations prescribed by the Secretary of the Interior but such rules and regulations shall not differ substantially from tribal rules and procedures in effect and shall attempt to follow the tribal rules and procedures as closely as possible.

C. In any election wherein a procedural problem or conflict develops between tribal custom and the Constitution and Bylaws, this Constitution and Bylaws shall prevail.

ARTICLE VII - Removal, Resignation and Recall From Office

Section 1 If a member of the Council is convicted of a felony or crime which involves dishonesty his office shall be considered forfeited upon passage of a resolution by the Tribal Council.

Section 2 If the Council decides by a 2/3 vote that a member of the Council has failed in the performance of the duties assigned him, he may be subject to removal. After such a decision, the Council shall advise the accused in writing of his failure and give him an opportunity to be heard in his own defense at a meeting of the Council within thirty (30) days after the Council made its decision. If the Council decides against the accused councilman, by 2/3 majority, it shall require such member to stand for re-election. A special election shall be immediately called pursuant to Article VI hereof. At least thirty percent (30%) of the registered voters must vote in such an election and a simple majority shall prevail. If the vote is against removal (NO vote), the Councilman shall reassume his office in good standing. If the vote is for removal (YES vote), his office shall be considered vacant. If less than thirty percent (30%) of the registered voters vote in such an election, the council member in question shall reassume his office.

Section 3 Upon death or resignation of a councilman, the seat shall be declared vacant.

Section 4 Recall.

A. The registered voters of the Matuck Tribe shall have the right to recall any member or members of the Matuck Tribal Council by filing a petition with the Tribal Council Secretary signed by at least thirty percent (30%) of the registered voters. The Tribal Council Secretary shall provide a list of registered voters, if requested by the petitioners. Before signatures are obtained, the petitioners must file a copy of the petition with the Tribal Council Secretary. If not filed, the petition will be considered invalid.

B. Within ten (10) days after receipt of the valid petition, the Tribal Council shall notify the accused councilman by registered mail, return receipt requested and request his presence at a meeting with the Council in writing of the charges against him and further advise him of his right to present his defense at a general meeting of the Tribe. The Tribal Council shall also set the date for said general meeting and schedule the recall election.

C. Voting shall be by secret ballot and at least thirty percent (30%) of the registered voters must vote in such an election. A simple majority shall prevail. If the vote is against recall (NO vote), the councilman shall reassume his office in good standing. If the vote is for recall (YES vote), his office shall be considered vacant.

D. If the councilman who is the subject of the recall or removal election is an officer, then a successful recall terminates his status as councilman and officer.

ARTICLE VIII - Vacancy

Any vacancies which occur on the Tribal Council as a result of recall, removal, death or resignation shall be filled in the following manner:

A. If the vacancy occurs within one-hundred-eighty (180) days of the next regular tribal election, the Tribal Council shall appoint, by majority vote, a qualified tribal member to fill the vacancy for the unexpired term, except that such appointed member shall not serve in the capacity of an officer of the Council.

B. If the position which becomes vacant is not one which is ordinarily filled at the next election, the vacancy will be filled at the election, but for only the unexpired portion of the term.

C. If the vacancy occurs more than one-hundred-eighty (180) days before the next regular tribal election, the Tribal Council shall call a special election to fill the vacancy for the unexpired term within ten (10) days after the vacancy occurs. Such election shall be held as soon as possible but within forty-five (45) days after the vacancy occurs.

ARTICLE IX - Referendum

Upon a petition of at least thirty percent (30%) of the registered voters of the Tribe, any enacted or proposed resolution or ordinance of the Tribal Council shall be submitted to popular referendum and the vote shall decide whether the ordinance or resolution shall thereafter continue to be in effect. At least fifty-one percent (51%) of the registered voters shall vote in such a referendum and a 2/3 majority shall prevail. Prior to obtaining signatures, a copy of the proposed petition shall be filed with the elected Tribal Council Secretary. The petition shall not be valid if this copy of the petition is not first filed with the Tribal Council Secretary. The Tribal Council shall meet and set a time, place and date of a referendum in accordance with existing election procedures. Before or during the petition process, the Tribal Council shall furnish a list of registered voters if requested to do so.

ARTICLE X - Amendments

Section 1 In view of the changing times, it shall be the responsibility of the incumbent Tribal Council to review this Constitution and Bylaws not less than every five (5) years and recommend changes with the first year beginning upon the effective date of this amendment. This, however, does not preclude other changes as are considered necessary at any time.

Section 2 This Constitution and Bylaws may be amended by a majority vote of the registered voters of the Tribe voting in an election called for that purpose by the Secretary of the Interior or his representative. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Tribal Council or upon receipt of a petition signed by twenty percent (20%) of the registered voters of the Tribe. At least thirty percent (30%) of those entitled to vote must vote in such an election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior or his authorized representative.

ARTICLE XI - Savings and Severability

Section 1 All ordinances and resolutions heretofore enacted by the Matuck Tribal Council pursuant to the Previous Constitution which was approved on May 6, 1957, shall remain in full force and effect except to the extent that they are inconsistent with this Constitution.

Section 2 In the event that any provision of this Constitution is determined unconstitutional, illegal or invalid by a court of competent jurisdiction, the remaining provisions of this Constitution shall remain in effect.

ARTICLE XII - Adoption

This Constitution and Bylaws, when adopted by a majority vote of the registered voters of the Matuck Tribe, voting in an election called for that purpose by the Secretary of the Interior, provided at least thirty percent (30%) of those registered to vote in such election shall vote, and it shall be submitted to the Secretary of the Interior, and if approved, shall be effective from the date of such approval.

BYLAWS OF THE MATUCK TRIBE

ARTICLE I - Duties of Officers

Section 1 The Chairman of the Council shall preside over all meetings of the Council, shall perform all duties of a Chairman and exercise any authority given him specifically by the Council or by a general meeting of the Tribe. The Chairman shall have the power to vote.

Section 2 The Vice-Chairman, in the absence of the regular Chairman, shall preside and shall have all powers, privileges and duties of the Chairman. He shall have power to vote at any meeting.

Section 3 The Tribal Council Secretary shall have charge of all tribal correspondence and it shall be his duty to submit promptly to the Superintendent of the jurisdiction and other appropriate offices of the Bureau of Indian Affairs, copies of all minutes of regular and special meetings of the Council as well as copies of all resolutions and ordinances adopted by the Council. If a member of the Council, he shall have power to vote at any meeting.

Section 4 The duties of the Treasurer shall be as follows:

A. He shall accept, receipt for, keep and safeguard all funds in custody of the Council. He shall deposit all such funds as directed by the Matuck Council and shall keep accurate records of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his custody to the Council at regular meetings and at such other times as requested by the Council. He shall not pay or otherwise disburse any funds in custody of the Council except when properly authorized to do so by the Council.

B. The books and records of the Treasurer shall be audited at least once a year by a competent auditor employed by the Council, and at such other times as the Council may direct.

C. The Treasurer shall be required to give a surety bond satisfactory to the Council and the Commissioner of Indian Affairs or his authorized representative.

D. All checks shall be signed by the Treasurer and shall be countersigned by the Chairman of the Council or by some other officer designated by the Council.

E. If the Treasurer is a member of the Council, he shall have the power to vote at any meeting.

ARTICLE II - Meetings of the Council

Section 1 At the first meeting of the Council after a regular election, which shall be the first Saturday after election, new members of the Council will be inaugurated and take office, and the Council shall see that all council members have a correct and clear understanding of the Constitution and Bylaws and the management of tribal and reservation affairs, as well as the rules for conduct of their own body.

Section 2

Regular meetings of the Council shall be held as designated in a resolution by the Tribal Council. Such designation shall follow as close as possible to the dates and times being followed prior to the adoption of this Constitution.

Section 3

Special meetings of the Council may be called by the Chairman or special meetings may be called by the Chairman upon the written request of three or more members of the Council. Written notice shall be given to each council member at least five (5) days prior to special meetings.

Section 4

A. In the conduct of business, Roberts Rules of Order shall apply except when they are inconsistent with the express provisions of this Constitution and Bylaws. All regular meetings shall be open to all members of the tribe. Tribal members may participate in the discussion with the consent of the Chairman.

B. The order of business at any regular or special meetings of the Tribal Council shall be as follows:

(1) Call to Order by the Chairman

(2) Roll Call

(3) Reading of Minutes of Last Meeting

(4) Unfinished Business

(5) Reports

(6) New Business

(7) Adjournment

C. Voting at the council meetings may be by voice, but at the discretion of the Chairman, or upon the request of any two members of the Council, a secret vote may be taken.

Section 5 Matters of business for the Council shall be decided by a majority vote. A quorum (a number competent to transact business) of the Council shall be four (4) or more members, which may include the Chairman or Vice-Chairman.

Section 6 No council member shall vote on any matter coming before the Council in which he has a personal interest or in which he or she would be personally enriched by the outcome of the vote, unless special consent is given by a majority vote of the remaining council members.

Section 7 Each official, elected or appointed, shall take an oath of office prior to assuming his duties, which shall be: "I (Name) ______ do solemnly swear that I will support and defend the Constitution of the United States against all enemies, that I will carry out faithfully and impartially, the duties of my office to the best of my ability, that I will cooperate, promote, and protect the best interests of my Tribe in accordance with this Constitution and Bylaws."

ARTICLE III - Meetings of the Tribe

The Council may from time to time call meetings of all voters of the Tribe for the purpose of receiving reports. A general tribal meeting shall be held at least once a year at the time of the nomination of councilmen.

APPENDIX D

MATUCK ENROLLMENT
ORDINANCE

ORDINANCE

MATUCK ENROLLMENT PROCEDURES ACT

Statement of Purpose: An ordinance to define and regulate membership in the Matuck Tribe in accordance with tribal requirements, and to establish an orderly enrollment procedure which affords due process of tribal law to all persons applying for enrollment as a member of the Matuck Tribe of the Matuck Reservation, Arizona; Now Therefore:

BE IT ENACTED BY THE Council of the Matuck Tribe of the Matuck Reservation, Arizona, as follows:

MEMBERSHIP REQUIREMENTS

ARTICLE I - TITLE AND DEFINITIONS

Section 1 - Short Title

This ordinance may be cited as the Matuck Enrollment Act.

Section 2 - Definition of Terms

For the purpose of this ordinance, the word or words underlined below shall have the following definitions:

(A) Applicant means the person seeking to be enrolled or adopted.

(B) Appellant means a person who is appealing from the Matuck Council's decision to reject an application for enrollment.

(C) Sponsor means the executor or administrator of the applicant's estate, the appellant's parents, recognized guardian, next friend, next of kin, or the applicant's spouse or other person authorized to file an application for enrollment on behalf of another person as the applicant.

(D) Enrollment Committee means a committee established by the Matuck Council with the authority to recommend to the Council whether an application for enrollment should be approved or rejected.

ARTICLE II - APPLICATION FOR ENROLLMENT OR ADOPTION

Section 1 - Written Application to be Filed with Enrollment Committee

A separate written application for enrollment or a form approved by the Council shall be filed with the Enrollment Committee by or on behalf of each person applying for enrollment or adoption as a member of the Tribe.

The petition for adoption shall state that the applicant (1) desires to become a member of the Matuck Tribe, (2) is not a member of any other Tribe, (3) is at least one-fourth (1/4) Indian blood, and (4) lives on the Matuck Indian Reservation or is related to a member of the Matuck Tribe. The applicant shall present supporting evidence that he or she satisfies the adoption requirements.

Section 2 - Sponsoring an Application for Enrollment on Behalf of Another Person

If the person sought to be enrolled is deceased, a minor or other person in need of assistance, a member of the Armed Services or other services of the United States Government and/or members of their immediate families who are stationed outside the Continental United States, an application for enrollment may be completed and filed by the executor or administrator of the applicant's estate, the applicant's parents, recognized guardian, next friend, next of kin, or by the applicant's spouse as the sponsor or such person.

Section 3 - Applications to be Numbered and Dated

The Enrollment Committee shall assign an identifying number and shall record the date of each enrollment application received.

ARTICLE III - PROCESSING ENROLLMENT APPLICATIONS

Section 1 Enrollment Committee shall Review Applications and Make Recommendations to the Matuck Council

The Enrollment Committee shall review all enrollment application and adoption petitions and shall consider the information provided in such applications, together with all other available evidence concerning the applicant's eligibility for membership and make its written recommendation to the Matuck Council as to whether the application should be approved or rejected. Where the Committee considers additional information is needed, it may request such information from the person filing the application and may request such person to appear before the Committee for a personal informal interview. The content and form for such written recommendation shall be approved by the Matuck Council.

Section 2 - Notice of Hearing to be Given when Application is Being Recommended or Considered for Rejection

(A) Written Notice Required. Whenever the Enrollment Committee recommends rejection or the Matuck Council considers that an application for enrollment should be rejected, written notice that a hearing will be held concerning such application shall be given the person filing the application, in the manner hereinafter provided, before a final determination of the applicant's eligibility for enrollment is made by the Council.

(B) Contents of Notice. The written notice required to be given under this section shall (1) indicate the tribal membership requirement or requirements which the applicant failed to establish or other reasons why the application should be rejected, (2) fix a time and place for the Matuck Council to hold a hearing to make its final determination of the applicant's eligibility for enrollment, (3) indicate that the person filing the application may appear before the Matuck Council at the time and place fixed for such hearing to show why the application for enrollment should not be rejected and to present additional evidence, if any, concerning the applicant's eligibility for enrollment. The content and form of such written notice shall be approved by the Matuck Council.

(C) Manner of Giving Written Notice. The notice required under this section shall be given 20 days prior to the time fixed for the Matuck Council to hold a hearing to make its final determination of applicant's eligibility for enrollment, and notice shall be sent by certified mail, with postage thereon fully prepaid and return receipt requested, addressed to the person filing the application for enrollment at the mailing address provided by such person in the application enrollment form, or at such different address as such person may subsequently provide the Enrollment Committee in writing.

(D) Presumption that Written Notice was Received. Where it appears that the notice required under this section was deposited in a United States Post Office more than 30 days prior to the time fixed for the Matuck Council to hold its hearing concerning the applicant's eligibility for enrollment and that such notice was sent by certified mail as provided in sub-section (C) above, it shall be presumed that such notice was received by the addressee more than 20 days prior to the time fixed for the hearing by the Matuck Council.

Section 3 - Council shall Determine Applicant's Eligibility for Enrollment

(A) Reviewing Applicant's Eligibility. The Matuck Council shall review each application for enrollment together with the recommendation of the Enrollment Committee and determine whether the applicant is eligible to be enrolled as a member of the Matuck Tribe of the Matuck Reservation, Arizona. The person filing an application has the burden of proof of establishing to the satisfaction of the Matuck Council that the applicant meets all of the requirements for tribal membership. The Matuck Council shall consider all relevant evidence regarding the applicant's eligibility for enrollment, but the relevancy, weight, and sufficiency of such evidence shall be determined by the Matuck Council.

(B) Hearing to be Held Before Application is Rejected. Before making a final determination that an application for enrollment should be rejected, the Matuck Council shall hold a hearing concerning the applicant's eligibility for enrollment and the person filing the application shall be given written notice of the hearing in accordance with the provisions of Article II, Section 2 of the ordinance. The manner of conducting such hearing or any other matters pertaining to enrollment procedures shall be determined by the Council.

(C) Determination of Applicant's Eligibility. The final determination as to whether an application for enrollment is approved or rejected by the Matuck Council shall be reduced to writing and signed by the Chairman of the Matuck Council regarding each application for enrollment filed with the Enrollment Committee. Such determination shall also set forth findings of fact indicating whether the Enrollment Committee recommended that the application be approved or rejected, the date of the applicant's birth, and the membership requirement or requirements which the Matuck Council found the applicant failed to establish. If the application is rejected, the Council shall also make special findings of fact concerning the written notice of hearing which was given to the person filing the application and whether or not such person was present at such hearing. The form of the Matuck Council's written determination shall be approved by the Matuck Council.

Section 4 - Notice of Matuck Council's Determination of Applicant's Eligibility

(A) Notice Required. Every person filing an application for enrollment shall be given written notice of whether the

Matuck Council rejected or accepted the application for enrollment.

(B) Content of Notice or Rejection. If the Matuck Council rejected the application for enrollment, the written notice shall (1) indicate that the application was rejected and set forth the tribal membership requirement or requirements which the Matuck Council found the applicant failed to establish, and (2) provide that the rejection of the application for enrollment may be appealed to the Tribal Judge or Tribal Court in accordance with the appeal procedures established by this ordinance. If, at the time of the appeal, there is no Tribal Judge or Court which can hear the matter, the rejection of the application may be appealed to a meeting of the general membership sitting as a "committee of the whole." A majority vote of those members present and voting shall be the final appeal. The notice shall indicate the time within which such an appeal must be commenced and the procedure for commencing such appeal. The content and form of the notice of rejection shall be approved by the Tribal Council.

(C) Content of Notice of Approval. If the Matuck Council approved the application for enrollment, the written notice shall indicate that the application was approved and the tribal resolution number and the date of its enactment whereby the approval of such application was commemorated. The content and form of the Notice of Approval shall be approved by the Matuck Council.

(D) Manner of Giving Notice. The notice required to be given under this section shall be given promptly after the Matuck Council makes its final determination as to whether the application for enrollment is approved or rejected, and shall be sent by certified mail with postage thereon fully prepaid, with a return receipt requested, address provided by such person in the application form or at such different address as may be subsequently provided the Enrollment Committee in writing.

ARTICLE IV - APPEALS TO THE TRIBAL JUDGE OR TRIBAL COURT

Section 1 - Right of Appeal

Any person filing an application for enrollment which has been rejected by the Tribal Council may appeal such rejection to the Tribal Judge, Tribal Court, or to a general meeting of the membership in the manner hereinafter provided.

Section 2 - Commencing an Appeal

To commence an appeal, such person must clearly express an intent to appeal such rejection to the Tribal Judge, Tribal Court, or to a general meeting of the membership in a written instrument, a copy of which must be served on the Matuck Council, Matuck Reservation, Arizona, before the close of business on the 30th day after the notice of rejection is received by the person filing the application for enrollment, unless such notice is delivered to an address outside the Continental United States in which case there shall be 60 days rather than 30 days in which to file such an appeal.

Section 3 - Appellate Review

Upon an appeal being commenced, the Matuck Council shall transmit the complete record pertaining to the application for enrollment, together with all evidence presented concerning the applicant's eligibility to the Tribal Judge, Tribal Court, or to a general meeting of the membership. The burden of proof of establishing eligibility is on the appellant. The appeal should include any supporting evidence not previously furnished and may include a copy of or reference to any bureau or tribal records having a direct bearing on appellant's eligibility. Appellant may furnish affidavits from persons having personal knowledge of the facts at issue. An appellant may request additional time to submit supporting evidence. A period considered reasonable for such a submission may be granted by the Court, if the appeal is taken to the Tribal Court, or by the Tribal Council if the appeal is to the general membership.

Section 4 - Decision of Tribal Judge, Tribal Court, or General Membership

The Tribal Judge, Tribal Court, or the general membership will consider the record as presented, together with such additional information that may be considered pertinent, and the Court of general membership may, in its own discretion, allow oral presentations to be made. Any such additional information shall be specifically identified in the decision. The decision of the Tribal Judge, Tribal Court, or general membership on appeal shall be final and conclusive and written notice of the decision shall be given to the appellant.

ARTICLE V - MISCELLANEOUS

Section 1 - List of Applicant's Names to be Provided Superintendent

The Matuck Council shall furnish the Superintendent of the Matuck Agency with a list of applicants, names and their application numbers indicating those applications which were approved and those rejected. A separate statement shall accompany such list stating the reasons for the rejection of each rejected application.

Section 2 - Tribal Membership Roll

Tribal membership roll shall contain the names of all enrolled members of the Matuck Tribe of the Matuck Reservation, Arizona, arranged in alphabetical order. For each such member, the roll shall also indicate the person's enrollment number, sex, date of birth, degree Matuck blood and parent's blood, address and a column for remarks, e.g., date of enrollment. The remarks column should also indicate the name and base roll number of the person's parents. Any notations made upon such roll shall indicate by whom such notations were made, the date, and the authority for making such notations.

Section 3 - Tribal Membership Roll to be Kept Current

The Matuck Council shall cause the tribal membership roll to be kept current and shall annually review the roll for such purpose. The names of all persons who are deceased and all persons who have relinquished their membership in the tribe in writing shall be noted in the roll and the names of all persons whose applications for enrollment have been approved by the Matuck Council shall be promptly added to the roll.

Section 4 - Repeal of Prior Conflicting Ordinances and Resolutions

Any ordinance or resolution in conflict herewith shall be repealed to the extent of such conflict.

Section 5 - Effective Date of Ordinance

This ordinance shall become effective upon its being approved by the Secretary of the Interior or authorized representative.

CHART TO ESTABLISH DEGREE OF INDIAN BLOOD

PARENTS ▶

▼	N.I.	1/16	1/8	3/16	1/4	5/16	3/8	7/16	1/2	9/16	5/8	11/16	3/4	13/16	7/8	15/16	4/4
1/16	1/32	1/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32
1/8	1/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16
3/16	3/32	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32
1/4	1/8	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8
5/16	5/32	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32
3/8	3/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16
7/16	7/32	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32
1/2	1/4	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4
9/16	9/32	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32
5/8	5/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16
11/16	11/32	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32
3/4	3/8	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8
13/16	13/32	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32
7/8	7/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16
15/16	15/32	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16	31/32
4/4	1/2	17/32	9/16	19/32	5/8	21/32	11/16	23/32	3/4	25/32	13/16	27/32	7/8	29/32	15/16	31/32	4/4
1/32	1/64	3/64	5/64	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64
3/32	3/64	5/64	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64
5/32	5/64	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64
7/32	7/64	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64
9/32	9/64	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64
11/32	11/64	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64
13/32	13/64	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64
15/32	15/64	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64
17/32	17/64	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64
19/32	19/64	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64
21/32	21/64	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64
23/32	23/64	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64
25/32	25/64	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64
27/32	27/64	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64
29/32	29/64	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64	61/64
31/32	31/64	33/64	35/64	37/64	39/64	41/64	43/64	45/64	47/64	49/64	51/64	53/64	55/64	57/64	59/64	61/64	63/64

TO DETERMINE DEGREE OF BLOOD OF CHILDREN, FIND DEGREE OF ONE PARENT IN LEFT COLUMN AND OF THE OTHER PARENT IN TOP ROW. READ ACROSS TO RIGHT AND DOWN THE COLUMN TO THE PROPER DEGREE.

"N.I." MEANS NON-INDIAN. *EXAMPLE: CHILD OF ONE PARENT 11/16, THE OTHER 5/8, WOULD BE 21/32 DEGREE INDIAN.*

APPENDIX F

The Indian Civil Rights Act of 1968

The Indian Bill of Rights

(25 U.S.C., §§ 1301 - 1303)

§1301. Definitions

For purposes of this subchapter, the term --

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) "Indian court" means any Indian tribal court or court of Indian offense.

Pub.L. 90-284, Title II, §201, Apr. 11, 1968, 82 Stat. 77.

§1302. Constitutional rights

No Indian tribe in exercising powers of self-government shall --

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment

greater than imprisonment for a term of six months or a fine of $500, or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Pub.L. 90-284, Title II, §202, Apr. 11, 1968, 82 Stat. 78

§1303. Habeas corpus

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

Pub.L. 90-284, Title II, §203, Apr. 11, 1968, 82 Stat. 78.

APPENDIX G

REGISTRATION OFFICES OF BIRTH AND DEATH IN THE UNITED STATES

PLACE OF BIRTH			
ALABAMA	Bureau of Vital Statistics	State Department of Health	Montgomery 36102
ALASKA	Bureau of Vital Statistics	State Dept. of Health & Welfare	Juneau 99801
ARIZONA	Division of Vital Statistics	State Department of Health	Phoenix 85007
ARKANSAS	Bureau of Vital Statistics	State Board of Health	Little Rock 72201
CALIFORNIA	Bureau of Vital Statistics	State Department of Public Health	Sacramento 95814
COLORADO	Bureau of Vital Statistics	State Division of Public Health	Denver 80203
CONNECTICUT	Bureau of Vital Statistics	State Department of Health	Hartford 06115
DELAWARE	Bureau of Vital Statistics	State Board of Health	Dover 19901
DISTRICT OF COLUMBIA	Bureau of Vital Statistics	Office of the Health Department	Washington 20001
FLORIDA	Bureau of Vital Statistics	State Board of Health	Jacksonville 32202
GEORGIA	Division of Information and Statistics	State Department of Public Health	Atlanta 30303
IDAHO	Division of Vital Statistics	State Department of Public Health	Boise City 83702
ILLINOIS	Division of Vital Statistics and Records	State Department of Public Health	Springfield 62706
INDIANA	Division of Public Health Statistics	State Board of Health	Indianapolis 46204
IOWA	Division of Vital Statistics	State Department of Health	Des Moines 50319
KANSAS	Division of Vital Statistics	State Board of Health	Topeka 66612
KENTUCKY	Division of Vital Statistics	State Department of Health	Louisville 40203
LOUISIANA (except New Orleans)	Division of Public Health Statistics	State Department of Health	New Orleans 70112
NEW ORLEANS	Bureau of Vital Records	City Health Department	New Orleans 70112
MAINE	Division of Vital Statistics	State Department of Health & Welfare	Augusta 04330
MARYLAND (except Baltimore)	Bureau of Vital Statistics	State Department of Health	Baltimore 21201
BALTIMORE	Bureau of Vital Statistics	City Health Department	Baltimore 21202

PLACE OF BIRTH			
MASSACHUSETTS (except Boston)	Division of Vital Statistics	Office of the Secretary	Boston 02202
BOSTON	City Registry Department	City Hall Annex	Boston 02201
MICHIGAN	Bureau of Records and Statistics	State Department of Health	Lansing 48933
MINNESOTA	Division of Vital Statistics	State Department of Health	St. Paul 55103
MISSISSIPPI	Division of Vital Statistics	State Board of Health	Jackson 39201
MISSOURI	Vital Statistics Section	State Division of Health	Jefferson City 65101
MONTANA	Division of Vital Statistics	State Board of Health	Helena 59601
NEBRASKA	Bureau of Vital Statistics	State Department of Health	Lincoln 68509
NEVADA	Division of Vital Statistics	State Department of Health	Carson City 89701
NEW HAMPSHIRE	Bureau of Vital Statistics	State Department of Health	Concord 03301
NEW JERSEY	Bureau of Vital Statistics	State Department of Health	Trenton 08625
NEW MEXICO	Division of Vital Statistics	State Department of Public Health	Santa Fe 87501
NEW YORK (except New York)	Division of Vital Statistics	State Department of Health	Albany 12207
NEW YORK CITY	Division of Records	Bureau of Records and Statistics	125 Worth Street New York, N.Y. 10013
NORTH CAROLINA	Division of Vital Statistics	State Board of Health	Raleigh 27611
NORTH DAKOTA	Division of Vital Statistics	State Department of Health	Bismarck 58501
OHIO	Division of Vital Statistics	State Department of Health	Columbus 43215
OKLAHOMA	Bureau of Vital Statistics	State Department of Health	3400 North Eastern Oklahoma City, Oklahoma 73105
OREGON	Division of Vital Statistics	State Board of Health	Portland 97208
PENNSYLVANIA	Bureau of Vital Statistics	State Department of Health	Harrisburg 17120
RHODE ISLAND	Division of Vital Statistics	State Department of Health	Providence 02903
SOUTH CAROLINA	Bureau of Vital Statistics	State Board of Health	Columbia 29217
SOUTH DAKOTA	Division of Vital Statistics	State Board of Health	Pierre 57501
TENNESSEE	Division of Vital Statistics	State Department of Public Health	Nashville 37210
TEXAS	Bureau of Vital Statistics	State Board of Health	Austin 78701
UTAH	Division of Vital Statistics	State Department of Health	Salt Lake City 84114

PLACE OF BIRTH

VERMONT	Clerk of Town or City where Birth occurred, Name of Town or City, if Unknown, may be obtained from Office of Secretary of State		Montpelier 05602
VIRGINIA	Bureau of Vital Statistics	State Department of Health	Richmond 23219
WASHINGTON	Bureau of Central Administration	State Department of Health	Olympia 98507
WEST VIRGINIA	Division of Vital Statistics	State Department of Health	Charleston 25311
WISCONSIN	Bureau of Vital Statistics	State Board of Health	Madison 53701
WYOMING	Bureau of Vital Statistics	State Department of Public Health	Cheyene 82001

APPENDIX H

A List of Indian Groups Acknowledged to Exist as Tribes

(As listed in The Federal Register,
January 31, 1979)

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

INDIAN TRIBAL ENTITIES [1] THAT HAVE A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE UNITED STATES

Delegation of Authority

JANUARY 31, 1979.

This notice is published in exercise of authority delegated by the Assistant Secretary—Indian Affairs under 5 U.S.C. 2 and 9; and 230 DM 1 and 2.

Notice is hereby given in accordance with 25 CFR 54.6(b) by the Bureau of Indian Affairs of the tribal entities that have a government-to-government relationship with the United States. The United States recognizes its trust responsibility to these Indian entities and, therefore, acknowledges their eligibility for programs administered by the Bureau of Indian Affairs. The listed entities are not necessarily eligible for programs administered by other Federal Agencies. The list of eligible Alaskan entities will be published at a later date.

INDIAN TRIBAL ENTITIES [1] THAT HAVE A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE UNITED STATES

Absentee-Shawnee Tribe of Oklahoma
Acoma Pueblo of New Mexico
Aqua-Caliente Band of Cahuilla Indians (Palm Springs), Aqua-Caliente Indian Reservation, California
Ak Chin Indian Community, Maricopa, Ak Chin Reservation, Arizona
Alabama-Quassarte Creek Tribal Town, Oklahoma
Alturas Rancheria of Pit River Indians, California
Apache Tribe of Oklahoma
Arapahoe Tribe of Wind River Reservation, Wyoming
Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana
Augustine Band of Cahuilla Mission Indians, Augustine Reservation, California
Bad River Band of Lake Superior Chippewa Indians, Bad River Reservation, Wisconsin
Barona Capitan Grande Band of Dieguено Mission Indians, Barona Reservation, California
Bay Mills Indian Community, Bay Mills Reservation, Michigan
Berry Creek Rancheria of Maidu Indians, California
Big Bend Rancheria of Pit River Indians, California
Big Lagoon Rancheria of Smith River Indians, California
Big Pine Band of Owens Valley Paiute Shoshone Indians, Big Pine Reservation, California
Blackfeet Tribe, Blackfeet Indian Reservation, Montana
Bridgeport Paiute Indian Colony, California
Burns Paiute Indian Colony, Oregon
Cabazon Band of Cahuilla Mission Indians, Cabazon Reservation, California
Cachil Dehe Band of Wintun Indians of Colusa Rancheria, California
Caddo Tribe of Oklahoma
Cahuilla Band of Mission Indians, Cahuilla Reservation, California
Cahto Indian Tribe of the Laytonville Rancheria, California
Campo Band of Dieguено Mission Indians, Campo Reservation, California
Capitan Grande Band of Dieguено Mission Indians, Capitan Grande Reservation, California
Cayuga Nation of New York
Cedarville Rancheria of Northern Paiute Indians, California
Chemehuevi Tribe, Chemehuevi Reservation, Arizona
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Cheyenne River Sioux Tribe, Cheyenne River Reservation, South Dakota
Chickasaw Nation of Oklahoma
Chippewa-Cree Tribe of the Rocky Boy Reservation, Montana
Chitimacha Tribe of Louisiana
Choctaw Nation of Oklahoma
Citizen Band of Potawatomi Indians of Oklahoma
Cochiti Pueblo of New Mexico
Cocopah Tribe of Arizona
Coeur D'Alene Tribe, Coeur D'Alene Reservation, Idaho
Cold Springs Rancheria of Mono Indians, California
Colorado River Tribes of the Colorado River Indian Reservation, Arizona
Comanche Tribe of Oklahoma
Confederated Tribes of the Chehalis Reservation, Washington
Confederated Tribes of the Colville Reservation, Washington
Confederated Tribes of the Goshute Reservation, Nevada & Utah
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Siletz Reservation, Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation, Oregon
Cortina Rancheria of Wintun Indians, California
Coushatta Tribe of Louisiana
Covelo Indian Community of the Round Valley Reservation, California
Coyote Valley Band of Pomo Indians, California
Creek Nation of Oklahoma
Crow Tribe of Montana
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Cuyapaipe Band of Dieguено Mission Indians, Cuyapaipe Reservation, California
Delaware Tribe of Western Oklahoma
Devils Lake Sioux Tribe, Devils Lake Sioux Reservation, North Dakota
Dry Creek Rancheria of Pomo Indians, California
Duckwater Shoshone Tribe, Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians of North Carolina
Eastern Shawnee Tribe of Oklahoma
Elem Indian Colony of Pomo Indians of California
Ely Indian Colony, Nevada
Enterprise Rancheria of Maidu Indians, California
Flandreau Santee Sioux Tribe, South Dakota
Forest County Potawatomi Indian Community of Wisconsin
Fort Belknap Indian Community, Fort Belknap Reservation, Montana
Fort Bidwell Indian Community, Paiute Indians of the Fort Bidwell Reservation, California
Fort Independence Indian Community, Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute-Shoshone Tribes, Fort McDermitt Reservation, Nevada
Fort McDowell, Mohave-Apache Indian Community, Fort McDowell Indian Reservation, Arizona
Fort Mojave Tribe of Arizona
Fort Still Apache Tribe of Oklahoma
Gila River Indian Community, Gila River Reservation, Arizona
Grindstone Indian Rancheria of Wintun-Wailaki Indians, California
Hannahville Potawatomi Indian Community of Michigan
Havasupai Tribe, Havasupai Reservation, Arizona
Hoh Tribe, Hoh Indian Reservation, Washington
Hoopa Valley Tribe of the Hoopa Valley Reservation, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians, Hopland Rancheria, California
Hualapai Tribe, Hualapai Reservation, Arizona
Inaja & Cosmit Reservation (Dieguено Indians), California
Iowa Tribe of Kansas & Nebraska
Iowa Tribe of Oklahoma
Islete Pueblo of New Mexico
Jackson Rancheria of Me-Wuk Indians, California
Jemez Pueblo of New Mexico
Jicarilla Apache Tribe, Jicarilla Apache Indian Reservation, Arizona
Kaibab Band of Paiute Indians, Kaibab Indian Reservation, Arizona
Kalispel Indian Community, Kalispel Reservation, Washington
Karok Tribe of California
Kashia Band of Pomo Indians of Stewards Point Rancheria, California
Kaw Tribe of Oklahoma
Keweenaw Bay Chippewa Indian Community, L'Anse Reservation, Michigan
Kialegee Tribal Town of Creek Indians, Oklahoma
Kickapoo Tribe of Kansas
Kickapoo Tribe of Oklahoma
Kiowa Tribe of Oklahoma
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Mission Indians, LaJolla Reservation, California
La Posta Band of Dieguено Mission Indians, La Posta Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac Courte Oreilles Reservation, Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau Reservation, Wisconsin
Laguna Pueblo of New Mexico
Las Vegas Tribe of Paiute Indians, Las Vegas Colony, Nevada
Lookout Rancheria of Pit River Indians, California
Los Coyotes Band of Cahuilla Mission Indians, Los Coyotes Reservation, California
Lovelock Paiute Tribe, Lovelock Indian Colony, Nevada

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[1] Includes within its meaning Indian tribes, bands, villages, groups and pueblos as well as Eskimos and Aleuts.

Lower Brule Sioux Tribe, Lower Brule Reservation, South Dakota

Lower Elwha Tribal Community, Lower Elwha Reservation, Washington

Lower Sioux Indian Community, Lower Sioux, Reservation, Minnesota

Lummi Tribe, Lummi Reservation, Washington

Makah Tribe, Makah Reservation, Washington

Manchester Band of Pomo Indians, Manchester-Pt. Arena Rancheria, California

Manzanita Band of Diegueno Mission Indians, Manzanita Reservation, California

Menominee Tribe, Menominee Reservation, Wisconsin

Mesa Grande Band of Diegueno Mission Indians, Mesa Grande Reservation, California

Mescalero Apache Tribe, Mescalero Reservation, New Mexico

Miami Tribe of Oklahoma

Miccosukee Tribe of Florida

Middletown Rancheria of Pomo Indians, California

Minnesota Chippewa Tribe, Minnesota (Six component reservations: Boise Fort Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lac Band, White Earth Band)

Mississippi Band of Choctaw Indians, Mississippi

Moapa Band of Paiute Indians, Moapa River Reservation, Nevada

Modoc Tribe of Oklahoma

Montgomery Creek Rancheria of Pit River Indians, California

Morongo Band of Cahuilla Mission Indians, Morongo Reservation, California

Mucklesshoot Tribe, Muckleshoot Reservation, Washington

Nambe Pueblo of New Mexico

Navajo Tribe of Arizona, New Mexico and Utah

Nez Perce Tribe of Idaho, Nez Perce Reservation, Idaho

Nisqually Indian Community, Nisqually Reservation, Washington

Nooksack Indian Tribe of Washington

Northern Cheyenne Tribe, Northern Cheyenne Reservation, Montana

Northwestern Band of Shoshone Indians of Utah (Washakie)

Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota

Omaha Tribe of Nebraska

Oneida Nation of New York

Oneida Tribe of Wisconsin, Oneida Reservation, Wisconsin

Onondaga Nation of New York

Osage Tribe of Oklahoma

Ottawa Tribe of Oklahoma

Otoe-Missouria Tribe, Oklahoma

Paiute-Shoshone Indians of the Bishop Community, Bishop Colony, California

Paiute-Shoshone Indians of the Fallon Reservation, Nevada

Paiute-Shoshone Indians of the Lone Pine Community, Lone Pine Reservation, California

Pala Band of Luiseno Mission Indians, Pala Reservation, California

Papago Tribe of Arizona

Pascua Yaqui Tribe of Arizona

Passamaquoddy Tribe of Maine

Pauma Band of Luiseno Mission Indians, Pauma & Yuima Reservation, California

Pawnee Tribe of Oklahoma

Payson Tonto Apache Tribe of Arizona

Pechanga Band of Luiseno Mission Indians, Pechanga Reservation, California

Penobscot Tribe of Maine

Peoria Tribe of Oklahoma

Picuris Pueblo of New Mexico

Pit River Tribe, X-L Ranch Reservation, California

Pojoaque Pueblo of New Mexico

Ponca Tribe of Oklahoma

Port Gamble Indian Community, Port Gamble Reservation, Washington

Prairie Band of Potawatomi Indians of Kansas

Prairie Island Sioux Indian Community, Prairie Island Reservation, Minnesota

Puyallup Tribe, Puyallup Reservation, Washington

Pyramid Lake Paiute Tribe, Pyramid Lake Reservation, Nevada

Quapaw Tribe of Oklahoma

Quechan Tribe of the Fort Yuma Indian Reservation, California

Quileute Tribe, Quileute Reservation, Washington

Quinault Tribe, Quinault Reservation, Washington

Ramona Reservation, California

Red Cliff Band of Lake Superior Chippewa Indians, Red Cliff Reservation, Wisconsin

Red Lake Band of Chippewa Indians, Red Lake Reservation, Minnesota

Reno-Sparks Indian Colony, Nevada

Resighini Rancheria, Coast Indian Community of Yurok Indians, California

Rincon Band of Liuseno Mission Indians, Rincon Reservation, California

Roaring Creek Rancheria of Pit River Indians, California

Robinson Rancheria of Pomo Indians, California

Rosebud Sioux Tribe, Rosebud Indian Reservation, South Dakota

Rumsey Rancheria of Wintun Indians, California

Sac & Fox Tribe of the Mississippi in Iowa

Sac & Fox Tribe of the Missouri in Kansas

Sac & Fox Tribe of Oklahoma

Saginaw Chippewa Tribe of the Isabella Reservation, Michigan

Salt River Pima-Maricopa Indian Community, Salt River Reservation, Arizona

San Carlos Apache Tribe, San Carlos Reservation, Arizona

San Felipe Pueblo of New Mexico

San Ildefonso Pueblo of New Mexico

San Juan Pueblo of New Mexico

San Manual Band of Serrano Mission Indians, San Manual Reservation, California

San Pasqual Band of Diegueno Indians, San Pasqual Reservation, California

Sandia Pueblo of New Mexico

Santa Ana Pueblo of New Mexico

Santa Clara Pueblo of New Mexico

Santa Rosa Indian Community, Santa Rosa Rancheria of California

Santa Rosa Band of Cahuilla Mission Indians, Santa Rosa Reservation, California

Santa Ynez Band of Chumash Mission Indians, Santa Ynez Reservation, California

Santa Ysabel Band of Diegueno Mission Indians, Santa Ysabel Reservation, California

Santee Sioux Tribe, Santee Reservation, Nebraska

Santo Domingo Pueblo of New Mexico

Sauk-Suiattle Indian Tribe of Washington

Sault Ste. Marie Chippewa Tribe of Michigan

Seminole Nation of Oklahoma

Seminole Tribe of Florida

Seneca Nation of New York

Seneca-Cayuga Tribe of Oklahoma

Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake)

Sheep Ranch Rancheria of Me-Wuk Indians, California

Sherwood Valley Rancheria of Pomo Indians, California

Shingle Springs Rancheria (Verona Tract) of Miwok Indians, California

Shoalwater Bay Tribe, Shoalwater Bay Reservation, Washington

Shoshone Tribe of the Wind River Reservation, Wyoming

Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho

Shoshone-Paiute Tribe of the Duck Valley Reservaton, Nevada

Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation, South Dakota

Skokomish Tribe, Skokomish Reservation, Washington

Skull Valley Band of Goshute Indians, Utah

Soboba Band of Luiseno Mission Indians, Soboba Reservation, California

Sokoagon Chippewa Community, Mole Lake Band, Wisconsin

Southern Ute Tribe, Southern Ute Reservation, Colorado

Spokane Tribe of the Spokane Reservation, Washington

Squaxin Island Tribe, Squaxin Island Reservation, Washington

St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation, Wisconsin

St. Regis Band of Mohawk Indians of New York

Standing Rock Sioux Tribe, Standing Rock Reservation, North & South Dakota

Stockbridge-Munsee Mohican Indian Community, Wisconsin

Stillaguamish Tribe of Washington

Summit Lake Paiute Tribe, Summit Lake Reservation, Nevada

Suguamish Tribe, Port Madison Reservation, Washington

Susanville Rancheria of Paiute, Maidu, Pit River & Washoe Indians of California

Swinomish Indian Tribal Community, Swinomish Reservation, Washington

Sycuan Band of Diegueno Mission Indians, Sycuan Reservation, California

Table Bluff Rancheria of California

Table Mountain Rancheria of Yokut Indians of California

Taos Pueblo of New Mexico

Te-Moak Bands of Western Shoshone Indians, Nevada (Battle Mountain, Elko & South Fork)

Tesuque Pueblo of New Mexico

Thlopthlocco Creek Tribal Town of Oklahoma

Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

Tonawanda Band of Seneca Indians of New York

Tonkawa Tribe of Oklahoma

Torres-Martinez Band of Cahuilla Mission Indians, Torres-Martinez Reservation, California

Tule River Tribe, Tule River Reservation, California

Tulalip Tribes of the Tulalip Reservation, Washington

Tuolumne Band of Me-Wuk Indians, Tuolumne Rancheria, California

Turtle Mountain Band of Chippewa Indians, Turtle Mountain Reservation, North Dakota

Tuscarora Nation of New York

Twenty-Nine Palms Band of Luiseno Mission Indians, 29 Palms Reservation, California

United Keetoowah Band of Cherokee Indians, Oklahoma

Upper Lake Band of Pomo Indians of Upper Lake Rancheria, California
Upper Sioux Indian Community, Upper Sioux Reservation, Minnesota
Upper Skagit Tribe of Washington
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Tribe, Ute Mountain Reservation, Colorado, New Mexico & Utah
Utu Utu Gwaiti Paiute Tribe of the Benton Paiute Reservation, California
Viejas Baron Long Captain Grande Band of Dieguero Mission Indians, Viejas Reservation, California
Walker River Paiute Tribe, Walker River Reservation, Nevada
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville & Washoe Ranches)
White Mountain Apache Tribe, Fort Apache Reservation, Arizona
Wichita Tribe of Oklahoma
Winnebago Tribe of Nebraska, Winnebago Reservation, Nebraska
Winnebago Tribe of Wisconsin
Winnemucca Indian Colony, Nevada
Wyandotte Tribe of Oklahoma
Yakima Tribes of the Yakima Reservation, Washington
Yankton Sioux Tribe, South Dakota
Yavapai-Apache Indian Community, Camp Verde Reservation, Arizona
Yavapai-Prescott Tribe, Yavapai Reservation, Arizona
Yerington Paiute Tribe of Nevada (Campbell Ranch)
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Yurok Tribe of the Hoopa Valley Reservation, California
Zia Pueblo of New Mexico
Zuni Pueblo of New Mexico

For additional information contact Patricia Simmons, Division of Tribal Government Services, Branch of Tribal Relations, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number, 202-343-4045.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

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APPENDIX I

Terminated Tribes

Alabama and Coushatta Tribes in Texas
Catawba Tribe in South Carolina
Affiliated Ute Citizens of Uintah and Ouray (Mixed blood group)
Kanosh, Koosharem, Indian Peaks and Shivwits Bands of Paiutes
* Klamath and Modoc Tribes and Yahooskin Bands of Snake Indians
Ponca Tribe of Native Americans in Nebraska
Certain Tribes and Bands of Indians in Western Oregon as follows:

(85) Western Oregon Indians (6)
(68 Stat. 724) Termination effective 8-18-56
Confederated Tribes of the Grand Rhonde Community

Alsea
Applegate Creek
Calapooya
Chafton
Chempho
Chetco
Chetlessington
Chinook
Clackamas
Clatskanie
Clatsop
Clowwewalla
Coos
Cow Creek
Euchees
Galie Creek
Grave
Joshua
Karok
Kathlamet
Kusotony
Kwatami or Sixes
Lakimiut
Long Tom Creek
Lower Coquille
Lower Umpqua
Maddy
Mackanotin
Mary's River
Multnomah
Munsel Creek
Naltunnetunne
Nehalem
Nestucca
Northern Molalla
Port Orford
Pudding River
Rogue River
Salmon River
Santiam
Scoton
Shashta
Shasta Costa
Siuslaw
Skiloot
Southern Molalla
Takelma
Tillamook
Tolowa
Tualatin
Tumwater
Tututni
Upper Coquille
Upper Umpqua
Willamette
Yamhill
Yaquina
Yoncalla

* Modoc Indians in Oklahoma restored and confirmed as a Tribe.

Certain Rancherias in California. List of affected Rancherias is now being prepared. If in question, contact Sacramento Area Office for verification of status.

APPENDIX J

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20242

July 26, 1965

Memorandum

To: Area Directors, Superintendents and tribal officials

From: Commissioner

Subject: Determining degree of Indian blood

The question of determining degree of Indian blood of applicants for membership and making corrections of degree of Indian blood shown for enrollees in the records has become a serious problem in enrollment. This is due primarily to the fact that early records either do not show degree of Indian blood or those that do are inconsistent. In a number of cases changes have been made in the degree of Indian blood shown in the records without any indication of who made the change or the basis on which it was determined that the correction was necessary. This situation has prompted this office to establish a uniform procedure to be followed in correcting degree of Indian blood shown in the records.

In the absence of any specifications in constitutions or Federal statutes to the contrary, when compiling membership rolls or passing on enrollment applications, a determination as to the degree of Indian blood possessed by descendants of basic enrollees shall be made on the degree of Indian blood shown for the enrolled ancestor on the basic roll designated in the tribe's constitution, resolution, ordinance, or other document prescribing enrollment requirements, unless the degree of Indian blood has been changed and such change sanctioned by the Commissioner, or his authorized representative. Except where discrepancies are determined to be mathematical errors in computing degree of Indian blood, no changes will be considered unless the basic enrollee or one of his descendants who is an applicant for enrollment questions the degree of Indian blood shown on the basic roll and requests in writing that the degree be changed. When such a written request is received the agency records should be examined and a determination made by the Superintendent on the preponderance of the information reflected in the records. The Superintendent shall forward his findings and copies of the records on which his determination is based to the Area Director. The Area Office staff should check to see if there is any information in the Area Office files in addition to that furnished by the agency. After reviewing all of the records the Area Director shall make his evaluation of the case and submit it with his recommendations to this office where a final determination will be made. If it is determined that the degree of Indian blood shown in the records should be changed, where necessary an appropriate adjustment will be made in the degree of Indian blood ascribed to all members of the enrollee's family.

In cases where a discrepancy in degree of Indian blood shown on a roll is determined to be the result of a mathematical error in computation, such as one parent being shown as 4/4 degree, the other parent shown as 3/4 degree, and their children listed as 5/8 degree rather than 7/8, changes will be made by the official approving the roll. The changes will be called to the attention of the tribal officials and a list of the changes and the reasons therefore will be attached to the roll. Great care must be exercised in determining degree of Indian blood, especially where possession of a designated degree of Indian blood of a specific tribe is a requirement for membership. A chart for computing degree of Indian blood may be found in 83 IAM 8. Additional copies of the chart may be obtained from the Tribal Enrollment Section in Albuquerque, New Mexico.

In determining degree of Indian blood possessed by illegitimate children only 1/2 of the degree of Indian blood possessed by the mother may be counted unless paternity has been acknowledged by the purported father or established through the courts. If paternity has been established, the document on which the determination is based should be cited. Statements made by the mother as to the paternity of the child will not be acceptable.

Determining blood degree and showing degree of Indian blood on rolls is covered in detail in the training paper on membership rolls presented at the Tribal Operations Conference in March 1965. Additional copies of the training paper are available.

/s/
James E. Officer
Associate Commissioner

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